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U.S. BANKING RISKS AND COMPLIANCE
A CLIENT GUIDE TO BANK INQUIRIES

Financial Reporting I Sanctions Exposure I Corrective Disclosures
KYC & Due Diligence I Suspicious Activity Reports I Tax Residency & FBAR

2026 I Second Edition

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ABSTRACT

A bank's request for information can bring a client's cross-border financial history into a single file: the business that earned the money, the accounts through which it passed, and the tax and immigration records prepared along the way. The immediate task is to answer the bank accurately and on time. The wider task is to understand whether those records reveal a separate problem that needs correction. This Guide explains how to handle both. It follows a review from the first request through reconstruction of wealth and transfers, preparation of the response, and any necessary tax, foreign-account or sanctions disclosure. It also explains how information can reach authorities and what clients can do if an account is restricted or closed. An inquiry or suspicious activity report does not itself establish a violation. Careful preparation helps clients explain legitimate differences, correct real errors and make informed decisions before avoidable inaccuracies complicate the position.

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INTRODUCTION AND SCOPE

This opening states what the Guide covers, how it is organized, how to read a dated text, and which authorities must be verified before any reliance. Its central proposition is simple: a bank inquiry can expose underlying legal issues, but an inquiry, an inconsistency or a suspicious activity report does not itself establish a violation.

Most clients encounter the subject of this Guide in the same way. A bank sends a message through its online portal or a relationship manager telephones. The message asks where the money in an account came from, what the customer's business does, who owns a company, or why a particular transfer arrived from another country. It sets a deadline, often a short one, and it usually says little about why the questions are being asked. The client's instinct is to treat the request as an administrative nuisance: to answer quickly, attach whatever documents are closest to hand, and move on.

A request for information may be the first occasion on which a client’s financial history is reviewed as a whole. Tax returns from different countries, bank statements, immigration filings and the bank’s original questionnaire may describe the same activity in different ways. Some differences are readily explained: gross receipts are not profit, and a new company may continue an older business. Others reveal an error or an unmet legal obligation. The client and advisers need to establish which is which before preparing the response.

The practical objective is to give the bank a clear, supported account of the activity while identifying any separate legal work that the records require. Account retention matters, particularly where clients depend on the account for daily expenses or business payments. Tax, reporting and sanctions obligations also need attention on their own deadlines. A bank extension creates time to prepare the response; it does not extend those deadlines or preserve access to a disclosure procedure.

What this Guide covers

The Guide follows the life of a banking inquiry. Part I explains why banks ask questions, what can attract scrutiny, the difference between what a bank must do and what it chooses to do, and the five questions that lie behind almost every document request. Part II explains how financial information becomes visible: suspicious activity reports, the other reports that sit in the same database, the channels through which government agencies obtain bank information, and the information that moves between banks, across borders and through public sources. Part III examines the legal exposures that a review can surface: sanctions, restricted and blocked funds, tax residency and foreign income, FBAR and foreign-asset reporting, business and trust information returns, immigration consequences, and the standards that separate a mistake from a crime. Part IV sets out the response to the bank, from triage through internal review, privilege, reconstruction of wealth and the money trail, to the preparation and correction of a submission. Part V compares the correction and voluntary-disclosure routes available through the Internal Revenue Service, the Office of Foreign Assets Control and the Department of Justice, and explains how to sequence them. Part VI addresses outcomes: account closure, customer remedies, government contact and the maintenance of a defensible financial record.

The section immediately following this Introduction, **When a Bank Request Arrives**, is written to be read on its own by a client who has just received a request. It can be distributed separately. It summarizes the Guide's practical conclusions and points to the chapters that explain them.

The appendices contain working tools: an immediate-action checklist, questions to put to the bank and questions not to put, an account and ownership inventory, a chronology and discrepancy worksheet, an evidence matrix, worked reconciliations, a restriction and remedy comparison, reporting and remediation matrices, a deadline and limitation-period reference, and annotated correspondence examples.

What this Guide does not cover

The Guide addresses United States banks and United States law. Foreign law is discussed only where it meets a United States question, for example where a foreign tax declaration is offered as evidence of source of wealth or where a foreign bank's records may be reached by United States process. It does not advise on the law of any other country, and a client whose history involves foreign accounts, foreign businesses or foreign tax filings should expect to need foreign counsel as well.

It is not a compliance manual for banks, although bank compliance personnel may find the customer's perspective useful. It is not a tax-return preparation guide. It does not address digital-asset regulation beyond the points at which digital assets appear in source-of-funds analysis. And it does not attempt a complete treatment of United States sanctions, which the author addresses separately in *United States Economic Sanctions Against the Russian Federation* (Second Edition, 2026), to which Chapter 10 refers.

New York's 23 NYCRR Part 504 applies to specified DFS-regulated institutions, including state-chartered banks, New York-licensed branches and agencies of foreign banks, and certain check cashers and money transmitters. It addresses transaction monitoring, filtering and annual compliance findings; it does not apply to every business licensed by DFS. National banks have their own federal supervision. Identify the institution's charter, license and regulator before selecting a complaint route. Chapter 25 addresses that process.

How to read this Guide

Three conventions run throughout.

Documented, reported and unresolved. Keep these distinctions clear when assembling the facts. A record may establish a transaction; a client's recollection may suggest where to look; a missing document may leave an issue open. Tell the bank what the evidence supports, and identify material gaps without filling them with assumptions.

A risk indicator is not a violation. Foreign transfers, inconsistent figures or a missing filing copy may justify further review. They do not establish wrongdoing. Counsel should identify the issue, obtain the relevant records and resolve it on the evidence.

Legal requirements, bank policies and practical judgment are different things. The Guide distinguishes duties imposed by law from a bank's internal requirements and from practical recommendations. Ask which requirement the bank is applying: that distinction helps determine what evidence to provide and what options remain.

Reading routes

Readers arrive with different problems. The following routes lead to the most relevant material first; each route should eventually be supplemented by the full discussion.

Situation	Suggested reading order
A bank has asked for information and set a deadline	When a Bank Request Arrives; Chapters 5, 17, 19 and 20; Appendices A, B and J
Funds are frozen, restricted, returned or rejected	When a Bank Request Arrives; Chapters 11 and 10; Chapter 24; Appendix G
A filing omission has been discovered	Chapters 12, 13 and 14; Chapters 21 and 22; Appendices H and I
Sanctions questions have arisen about a bank or payment channel	Chapters 10 and 11; Chapter 23; the author's separate sanctions treatise
A government agency has made contact	Chapter 26, then Chapters 8, 16 and 18; preserve the notice and meet legal deadlines while obtaining advice
An account has been closed	Chapters 24 and 25; Chapter 27; Appendix B

The exposure pathways

The following table identifies possible connections between a banking review and other legal questions. Each route requires its own factual and legal predicates. It is not a prediction of a referral, investigation or violation.

Trigger	What the review assembles	Where information can travel	Questions that may follow
Periodic or event-driven bank review	Stated business and expected activity; source of wealth and funds; ownership and control	Bank's own file; any suspicious activity report and its supporting documentation	Whether the relationship continues; whether earlier answers were accurate
Transfers through foreign or intermediary institutions	Names of banks, processors and counterparties; dates and routes	Sanctions screening; correspondent banks; information sharing among institutions	Whether any institution was blocked or restricted on the transaction date
Foreign accounts and foreign business income	Balances, signatories, foreign tax filings	FinCEN database, where FBARs are also filed; IRS access under disclosure rules	Tax residency; FBAR, Form 8938 and entity information returns; limitation periods
Statements made to different audiences	Bank answers, tax filings, immigration petitions, loan applications	Separate agencies with separate authority	Whether differences are legitimate differences of measurement or real discrepancies requiring correction

Currency and the Authority Register

This Guide speaks as of September 2026. It is a dated text, not a statement of what is permitted on the day it is read. Two consequences follow. For a proposed action, nothing here may be relied on without checking the current position. For conduct that has already occurred, the governing rule is the version in force when the conduct took place, which must be retrieved for that date.

Several authorities referred to in the Guide are recent, change annually, or are administrative procedures that the issuing agency may revise or withdraw without notice. They are collected in the following register. Each must be verified against the official source before any filing, submission or client communication relies on it.

Penalty figures require particular care. OMB Memorandum M-26-11, dated April 17, 2026, directs agencies to retain the applicable 2025 civil monetary penalty levels for 2026 because October 2025 CPI-U data were unavailable. The amounts shown here follow that framework and the cited regulations. Before calculating exposure, confirm the governing provision and the amount applicable on the assessment date.

Authority	Point for which it is cited	Confirm before reliance
Joint Statement on SAR Confidentiality (FinCEN, Federal Reserve, FDIC, NCUA and OCC, September 2, 2026)	A bank may discuss underlying facts, transactions, documents and intended closure while keeping any SAR confidential	Confirm the September 2, 2026 statement, its scope and any later guidance before reliance.
FinCEN SAR Electronic Filing Instructions (April 2026) and Interagency SAR FAQs (October 9, 2025)	Attachment limits; continuing-activity reviews; documentation of decisions not to file	Confirm the applicable filing instructions, attachment limit and optional continuing-activity timetable.
Department of Justice Corporate Enforcement and Voluntary Self-Disclosure Policy (March 2026) and National Security Division guidance	Benefits for business organizations; preservation of individual accountability	Confirm the operative DOJ policy, its exclusions, individual exposure and any relevant component guidance.
OFAC civil penalty maximum and Enforcement Guidelines base-penalty caps	Per-violation exposure and self-disclosure calculations	Confirm the amount applicable to the assessment date and distinguish the statutory maximum from base-penalty caps; see OMB M-26-11 on 2026 adjustments.
FBAR civil penalty amounts (31 C.F.R. § 1010.821)	Non-willful and willful maximums	Confirm the assessment-date amounts in § 1010.821 and any subsequent amendment; see OMB M-26-11.

Authority	Point for which it is cited	Confirm before reliance
Russia-related wind-down and account-closure general licenses	Authorization to close accounts at blocked institutions	Confirm the license and restrictions in effect on each transaction date, and resolve the § 501.603 / FAQ 1081 reporting question.
IRS Streamlined Filing Compliance Procedures; Delinquent International Information Return Submission Procedures; Voluntary Disclosure Practice (IRM 9.5.11.9)	Eligibility, scope and penalty framework	Confirm current eligibility, submission instructions and penalty terms; distinguish adopted rules from proposals.
IRS guidance on late FBAR filing	The Guide relies on the statutory reasonable-cause exception rather than any former assurance of penalty-free treatment	Confirm the current IRS late-FBAR instructions and the requirements of any reasonable-cause defense.
Corporate Transparency Act beneficial ownership reporting (FinCEN interim final rule, March 2025)	Domestic companies and United States persons exempt from BOI reporting	Confirm the current BOI rule and separately the scope of FIN-2026-R001 bank CDD relief.
Executive Order 14331 (August 7, 2025) and related banking-agency actions	Federal policy on account denials described as politicized or unlawful debanking	Confirm which agency action is final, its effective date and its application to the institution involved.

Principal authorities. 31 U.S.C. §§ 5311–5336; 31 C.F.R. Chapter X; 23 NYCRR Part 504; 50 U.S.C. §§ 1701–1706; I.R.C. §§ 6038, 6038A, 6038D, 6501, 7701.

WHEN A BANK REQUEST ARRIVES

This section is written for a client who has just received a request for information, a restriction notice or a closure warning. It can be read on its own. It states what to do first, what not to do, and where in the Guide each point is explained.

Start by confirming the request, collecting what the bank already holds, and checking the deadline. A bank may be updating its records or examining a particular transaction; the request alone does not tell you whether it suspects a violation or has filed a report. The steps below help you prepare an accurate response and identify matters that need separate advice.

There is no fixed period within which a response must be prepared. The bank's deadline governs the bank relationship; a government filing deadline governs itself; neither is extended by the other. What follows is a sequence, not a timetable.

First: understand what has actually been asked

Confirm that the request is genuine. Fraudsters imitate bank compliance messages. Verify the request through the bank's secure portal or a telephone number taken from the bank's own website or a statement, not from the message itself. Do not send identity documents or account information in reply to an unverified email.

Ask for the questions and deadline in writing. If the bank gives instructions only by telephone, make a dated note and send a short confirmation through its secure channel. Record who spoke, what was requested and when the response is due. Continue preparing the response while you wait for confirmation.

Identify the scope and the deadline. Record which accounts, persons, entities and periods the request concerns, what documents are sought, and the stated date. If the scope is unclear, ask. A request for "tax documents" may mean a return, a transcript, a foreign declaration or evidence of payment; a request for "statements" may mean one account or every account in a transfer chain.

Find out what has already been sent. Before answering anything, collect every earlier communication with the bank: onboarding questionnaires, earlier answers, documents uploaded by the client, an accountant or anyone else. The bank's reading of a new document will depend on what it already holds. Chapter 17 explains how to reconstruct this history.

Second: preserve, and do not alter

Preserve everything. Keep original emails, portal messages, statements, returns, contracts, invoices, platform and processor reports, website content and messages with advisers and counterparties, including metadata. Preservation is the most important instruction in this Guide, and the impulse to tidy is strongest at the moment it does most harm.

Do not delete, backdate or alter records to change the apparent history. Removing a web page, editing a document or rewriting an old invoice so that records appear consistent can transform a manageable discrepancy into evidence of intent and, where an investigation is contemplated, into a potential obstruction offense. A legitimate correction to current website content may be appropriate, but only after the original has been preserved and the change reviewed. Chapter 16 explains the obstruction statutes; Chapter 18 explains preservation.

Third: do not make matters worse while the facts are assembled

Do not move potentially blocked funds or reroute a transfer to bypass a restriction. Ask counsel to identify the affected accounts and transactions promptly, pause dealings that may be prohibited, and determine whether a license or other authorization is available. Ordinary lawful payments from unrelated funds can continue; the review should focus on the property and conduct actually at issue.

Do not answer technical questions by telephone without preparation. Answer identity and contact questions directly. For questions about source of wealth, business activity, ownership or foreign transactions, say that a written response will follow.

Give supported facts rather than broad assurances. If the bank asks whether tax was paid, provide the relevant return and payment evidence. Avoid statements such as "all taxes have been paid" or "every transaction complied with sanctions" unless counsel has reviewed the facts and can support that conclusion.

Do not ask whether a suspicious activity report has been filed. The bank is generally prohibited from answering. The question achieves nothing and may itself be noted. Ask instead about the underlying concern and the outstanding requirements. Chapter 6 explains why.

Consult counsel before sending FinCEN an unsolicited rebuttal to a suspected SAR. There is no ordinary customer appeal against such a report. Address the bank's outstanding questions and use the appropriate filing, correction or disclosure procedure for any separate issue. Required filings and responses to lawful process must still be made on time.

Fourth: triage

Early triage determines what must happen first. The relevant factors are:

- **Continuing conduct.** Is anything happening now, such as continuing transfers through an institution whose status is unknown, that should be paused pending advice?
- **Deadlines.** Which dates are commercial (the bank's), and which are legal (tax returns, FBARs, blocked-property reports)? Legal deadlines are not extended by a bank extension.
- **Consequences.** What would follow from each possible answer: loss of an account, a reporting failure, a sanctions question, an immigration issue?
- **Remedies.** Are correction or disclosure routes available, and could they close on events that may occur soon?
- **Conflicts.** Where spouses, business partners or family members are involved, their interests may differ. Chapter 17 addresses joint representation.

Fifth: respond truthfully, proportionately and on time

Ask for a realistic extension where one is genuinely needed. State accurately what is outstanding and propose a specific date and an interim step. Give only true reasons. An extension creates preparation time with the bank; it does not suspend any government deadline or preserve eligibility for any disclosure program.

Consider a staged or partial response. A narrow, verified and expressly identified partial submission can demonstrate engagement while the remaining records are reviewed. It must say what is enclosed and what is not, and it must not imply that the request has been answered in full.

Explain material inconsistencies rather than leaving the bank to reconcile them. A document sent with no explanation will be interpreted by the bank on its own terms. A short, accurate cover letter that addresses the discrepancies material to the document is usually worth more than additional documents. Chapter 20 sets out what such a letter should and should not contain.

Review what a document will reveal before producing it. Bank statements disclose the identity of institutions, counterparties and routes. Where a sanctions question is plausible, those institutions should be screened for the relevant dates before the statements are produced. This is preparation, not concealment, and it should not become a reason to delay an otherwise straightforward response.

Remember that a letter to a bank is not privileged. Anything sent to a bank can become part of its file, and in defined circumstances can be produced to government agencies. Internal advice should remain separate.

Sixth: think beyond the account

Consider whether other institutions have asked similar questions. An unanswered request from another bank, a rejected transfer, or an earlier account closure affects the chronology and may affect the availability of disclosure routes. Tell counsel about all of them.

Obtain your own consumer reports. Specialty consumer reporting agencies maintain records of account closures and certain adverse information. Clients are entitled to obtain their reports and to dispute inaccuracies. Chapter 24 explains how.

Identify the other filings that the same facts touch. A banking review often reveals questions about tax residency, FBARs, Form 8938, Form 5472, immigration filings or loan applications. Part III explains each. Part V explains how to correct them in the right order.

If the situation is	Read next
Request for information with a deadline	Chapters 5, 17 and 20; Appendices A, B and J
Account restricted, frozen or payment returned	Chapter 11, then Chapter 24
Sanctions concern about a bank or processor	Chapters 10, 11 and 23
Filing omission discovered	Chapters 13, 14, 21 and 22
Contact from an agency, a subpoena or a summons	Chapter 26 before anything else

I. UNDERSTANDING THE BANKING INQUIRY

This Part explains why banks ask questions, what can attract scrutiny, how legal obligations differ from bank policy and commercial judgment, and the five questions that lie behind almost every request for documents.

Chapter 1. How the United States banking system works

This chapter is orientation. Nothing in it imposes an obligation on a customer, and none of it needs to be established from records. Its purpose is to describe the shape of the system before the chapters that follow examine the risks that arise within it, because several of those chapters assume knowledge that most clients do not have: that a payment ordinarily passes through institutions with which the customer has no relationship, that a bank's questions arise from a supervisory relationship rather than a judgment about the person asked, and that the legal entity holding the money determines almost everything that follows. A reader who already knows how a bank funds itself and how a cross-border payment moves may proceed to Chapter 2.

What a bank does with money

An ordinary bank deposit is a liability of the bank. The bank owes the customer the account balance on the terms of the deposit agreement; it does not hold that particular money in reserve for that particular customer. On the other side of its balance sheet sit its assets: loans, securities, cash and balances held at other institutions. Shareholders' equity stands between the two, absorbing losses before they reach the resources available to meet liabilities. The bank earns from lending, investments and services, and pays out interest, operating costs and credit losses.

The central mechanism is maturity transformation. Depositors may want their money back at short notice, while borrowers repay over years. A bank bridges that gap, which is what allows deposits to finance mortgages and business lending rather than sitting idle. It also creates the system's characteristic vulnerability: an institution can hold assets of real and sufficient value and still be unable to produce cash quickly enough to meet demands as they arrive.

Two distinct problems follow, and they are often conflated. **Capital** is the loss-absorbing cushion: it answers whether the institution can withstand assets turning out to be worth less than expected. **Liquidity** is the ability to pay obligations when they fall due: it answers whether the institution can produce cash at the moment it is needed. A bank can be well capitalized and illiquid, and the regulatory framework addresses each separately. The detail of those requirements is a matter between an institution and its supervisors and is outside the scope of this Guide, but the distinction explains why supervision concerns itself with the composition and behavior of a bank's funding, and therefore with the activity in its customers' accounts.

Retail, commercial and private banking are business lines, not charters

Retail banking serves individuals through checking and savings accounts, payment cards, mortgages and other consumer products. Commercial banking serves businesses through operating accounts, loans, treasury services and trade finance. Private banking serves individuals with substantial assets, often with more intensive due diligence attached. These are descriptions of a business, not separate legal categories. One chartered bank may conduct all of them, and a specialized institution may serve only businesses or only other financial institutions. Nothing about a customer's legal position follows from which of these labels an institution uses to describe itself.

Credit unions are a genuinely different category: cooperative depository institutions whose federally insured members are covered by the National Credit Union Share Insurance Fund rather than by FDIC deposit insurance. Financial technology companies are different again. An application or a brand is not a charter and is not insurance. Where a technology company offers an account interface, the money is ordinarily held at a partner bank named in the terms, and the customer's rights run against that bank on the terms of that arrangement. The customer must identify the institution that actually holds the money.

The Federal Reserve, and how a payment actually moves

The Federal Reserve is the central bank. It is not the ordinary public's account provider. Its structure comprises the Board of Governors, twelve regional Reserve Banks and the Federal Open Market Committee, and its responsibilities include monetary policy, supervision of specified institutions, financial stability and the operation of services supporting the payment system. Monetary policy influences financial conditions and the cost of credit generally; it does not mean that the government directs any individual bank's lending decisions.

The payment system is where this chapter becomes directly relevant to the rest of the Guide. When a customer pays someone who banks elsewhere, the two institutions must exchange instructions and settle the resulting obligation between themselves. Different systems handle different payments: the Automated Clearing House network carries payroll, recurring debits and similar transactions; wire systems carry larger and time-critical payments; instant-payment systems settle continuously. Some of this infrastructure is operated by the Federal Reserve and some by private operators.

Cross-border payments add a further layer. Dollar payments involving foreign banks generally pass through correspondent accounts that those foreign banks maintain at United States institutions. The correspondent screens payment messages and may ask the foreign bank about a transaction, the parties or its purpose. Payments initiated through a platform, marketplace or payment processor add more participants still: the processor aggregates many underlying transactions and settles them in batches, so the receiving bank sees the processor's name rather than the names of the individual customers.

The practical consequence is one of the most important in this Guide. **The institution holding the customer's account is not the only institution involved in a payment, and is frequently not the institution that stops one.** A transfer can be screened, delayed, questioned or returned by an intermediary with which the customer has no relationship and whose identity does not appear on the customer's statement. This is why Chapter 10 asks for the exact legal name and ownership of every bank, processor, acquirer and platform in a chain rather than only the customer's own bank; why Chapter 11 distinguishes a commercial return from a sanctions rejection, which may have been made by different institutions for unrelated reasons; why Chapter 9 explains how a correspondent's question reaches a customer through their own bank; and why the reconstruction in Chapter 19 must connect individual sales to processor settlements before a small number of large incoming transfers can be explained at all.

Why banking carries public safeguards

Because a bank funds long-dated assets with liabilities repayable on demand, it is exposed to the behavior of its own depositors. A depositor who believes others are about to withdraw has a reason to withdraw first, whatever the institution's underlying condition. Federal deposit insurance interrupts that logic by removing the incentive to act on the expectation alone, and it is effectively a precondition to taking deposits.

Insurance solves one problem and creates another. A fully insured depositor has little reason to examine how the bank uses the money, so risks the institution takes may be borne in part by the insurance fund rather than by the person who supplied the funding. Economists call this moral hazard. Capital requirements, examination, supervision and risk-based insurance assessments exist to constrain what an insured institution can transfer to the fund in this way. Financial stability is a further and separate concern: a bank's failure can interrupt payments, withdraw credit from businesses and transmit losses to other institutions, so supervision addresses not only an institution's own resilience but the consequences of its distress for others.

This is the origin of the questions that the rest of Part I examines, and the point is worth stating plainly because clients commonly read an inquiry as personal. A bank operates under a public license, holds insured deposits, and is examined on whether it understands its customers well enough to recognize activity it cannot explain. **A request for information is the ordinary operation of that arrangement, not evidence that the institution suspects a violation.** That does not make such a request unimportant, and it is emphatically not a reason to answer casually: Chapter 2 sets out the specific legal obligations involved, and Chapter 3 explains what can attract closer review.

Who supervises a particular institution

The United States has a dual banking system: an institution may be chartered under federal or state law, and the choice of charter determines its primary federal supervisor. There is no single banking regulator and no single rulebook.

Institution	Principal prudential supervision
National bank or federal savings association	Office of the Comptroller of the Currency
State-chartered bank that is a member of the Federal Reserve System	State authority and the Federal Reserve
State-chartered insured bank that is not a member	State authority and the Federal Deposit Insurance Corporation
Bank holding company	Federal Reserve, at the consolidated level
Federally insured credit union	National Credit Union Administration, or the state regulator for a state-chartered credit union

Federal supervision does not displace state supervision. For a state-chartered institution both apply, and an inquiry or complaint may properly be directed to either. New York-chartered and New York-licensed institutions, including the branches and agencies of foreign banks, are supervised by the New York Department of Financial Services in addition to any federal regulator. That is why 23 NYCRR Part 504, described in the Introduction, reaches some institutions operating in New York and not others: the test is the institution's charter or license, not its street address or its advertising. Chapter 25 explains why this identification must be made before a complaint route is selected.

A financial group adds another dimension. It may contain an insured bank, a broker-dealer, an investment adviser, a trust company and other subsidiaries, each with its own obligations and its own regulator, with consolidated requirements applying to the group on top. A brokerage subsidiary does not acquire deposit insurance because its parent also owns a bank. The name on a branch or an application is only the beginning of the analysis.

Authorities that follow the activity rather than the charter

Several authorities apply irrespective of how an institution is chartered. The Financial Crimes Enforcement Network administers the Bank Secrecy Act framework described in Chapters 2, 6 and 7. The Office of Foreign Assets Control administers the sanctions programs described in Chapter 10. The Consumer Financial Protection Bureau has supervisory authority over insured banks and credit unions with more than $10 billion in assets and their affiliates, subject to statutory limits; smaller institutions remain subject to federal consumer financial law, with compliance examinations generally performed by their prudential regulators. Securities regulators supervise securities businesses, whoever owns them. The practical consequence is that no single rulebook governs an institution, and its obligations are the intersection of several.

One caution belongs here because clients raise it. The intensity of any single agency's supervision and enforcement varies over time, sometimes considerably. That variation does not repeal a statute, create a defense or generate a remedy. Federal consumer financial law is also enforceable by state attorneys general, state financial regulators, the prudential banking agencies and private litigants, and the Bank Secrecy Act and sanctions obligations that occupy most of this Guide are unaffected by it. A client should not infer from reduced activity at one agency that an obligation has lapsed.

Securities firms and investment banks

Investment banking principally concerns helping companies and other issuers raise capital and advising on transactions such as mergers, acquisitions and restructurings. The contrast with commercial lending is easiest to see in a financing: a commercial bank may lend a company fifty million dollars and hold the resulting debt as a loan asset, while an investment bank may instead arrange a bond issue of the same size that investors purchase. In a firm-commitment underwriting the firm may temporarily take the securities onto its own books and bear the risk of distributing them.

The terms are not interchangeable and should not be used loosely in a submission. A fund pools investors' assets; an investment adviser manages assets or provides investment advice; a broker-dealer effects securities transactions or deals in securities. One group may contain all of these, and the obligations of each do not transfer to the others. A firm effecting securities transactions generally must register as a broker-dealer unless an exemption applies, and a registered firm is subject to Securities and Exchange Commission oversight, Financial Industry Regulatory Authority membership and rules where required, and applicable state requirements.

A securities dealer also funds itself differently. Rather than deposits, it may rely on equity, debt and repurchase agreements, under which securities are sold with an agreement to repurchase them later and which generally function as secured financing. Short maturities create refinancing risk: a firm funding longer-lived assets overnight must repeatedly obtain new financing, and if lenders decline to renew or demand more collateral, it may need cash immediately. A securities firm can therefore experience a funding run without any ordinary depositor withdrawing anything, which is the structural reason its regulation developed along different lines.

Clients sometimes arrive with the view that investment banks and other securities firms operate with very little regulation. The proposition is too broad to be useful. A securities firm outside a banking group does not face the prudential regime imposed on an insured deposit-taker, and the regulation it does face is directed principally at customer protection and market integrity rather than at the institution's own resilience. But broker-dealers are subject to financial-responsibility rules, including regulatory net capital requirements, and carrying firms must maintain possession or control of specified customer securities and reserve arrangements for customer funds. Where a securities firm belongs to a bank holding company, consolidated supervision applies to the group as well, so a familiar investment-banking name cannot be assumed to sit outside the banking framework.

For the purposes of this Guide the more important point is a different one. **Broker-dealers have their own anti-money-laundering obligations**, including customer identification, ongoing monitoring and suspicious activity reporting, and OFAC restrictions apply to their transactions. Moving assets from a bank to a securities firm does not avoid the inquiries described in Part I or the reporting described in Part II. A client who expects a brokerage to ask fewer questions about source of wealth, or to generate no reports, should not act on that expectation.

What protects the customer, and what does not

FDIC insurance generally covers eligible deposits up to $250,000 per depositor, per insured bank, per ownership category. Holding several accounts, or using several branches of the same bank, does not independently multiply coverage within the same category. Securities and investment products are not insured deposits merely because a bank sold them.

The Securities Investor Protection Corporation provides a different mechanism. SIPC protection concerns the return of qualifying customer cash and securities where a member brokerage fails and customer property is missing. Protection is generally limited to $500,000, including up to $250,000 for cash, subject to the statutory framework. It does not reimburse ordinary market losses and does not guarantee that an issuer will repay. Different account numbers do not necessarily create separate protected capacities.

Product or relationship	Main protection	What it does not promise
Eligible deposit at an insured bank	FDIC insurance within applicable limits	Unlimited coverage, or uninterrupted access to the account
Share account at an insured credit union	NCUSIF share insurance within applicable limits	Coverage under the FDIC framework or its categories
Qualifying assets at a SIPC member broker	Custody rules and SIPC protection where applicable	Compensation for market losses
Stock or bond bought through a bank or broker	Securities-law rights and disclosures	Repayment by the issuer, or a positive return
Investment-banking advisory engagement	Applicable securities, contractual and professional duties	A completed transaction or a particular outcome

For a brokerage cash-sweep arrangement, establish whether the money remains brokerage cash, is deposited at identified banks, or is held in a money market fund. Those arrangements produce different rights. Eligible swept deposits must be assessed together with any other deposits held at the same receiving bank in the same ownership category, and any pass-through insurance conditions must be satisfied before coverage can be assumed.

One correction is worth making directly, because it recurs. **Neither FDIC insurance nor SIPC protection addresses any of the situations this Guide concerns.** Both operate on the failure of the institution. Neither responds to a request for information, an internal restriction, a rejected payment, blocked property, a levy or a closure. A client who observes that the account is insured has answered a question that a restriction does not raise. Chapter 11 distinguishes the kinds of hold and identifies who can release each; Chapter 24 addresses closure and banking continuity.

Four questions worth answering first

Before a client describes a relationship to counsel, to a new institution or in a submission, four questions should be answered from the documents rather than from recollection.

- **Which legal entity is the counterparty**, and what does the account agreement say about it?
- **What product does the customer actually hold**: a deposit, a security, a fund interest, or a claim against an intermediary?
- **Which regulator supervises** that entity and that activity?
- **What happens to the customer’s claim if the institution fails**, and separately, what happens if the institution simply ends the relationship?

The answers are more informative than whether an institution describes itself as a retail, commercial, private or investment bank. The fourth question matters most, because it separates two things clients regularly conflate: insolvency protection, which is what FDIC insurance and SIPC address, and the commercial and legal restrictions that are the subject of the remainder of this Guide. With that structure in view, Chapter 2 turns to why a bank asks its customers questions at all.

Principal authorities. 12 U.S.C. §§ 1 et seq., 248, 461, 1751 et seq., 1811 et seq., 1813, 1821(a), 1841 et seq., 5515; 15 U.S.C. §§ 78o, 78aaa–78lll; 12 C.F.R. Parts 204, 210, 330; 17 C.F.R. §§ 240.15c3-1, 240.15c3-3; 31 C.F.R. §§ 1020.210, 1023.210, 1023.220, 1023.320; 23 NYCRR Part 504.

Chapter 2. Why your bank is asking questions

United States banks are required by law to know who their customers are and to understand their customers' financial activity well enough to recognize when something does not fit. The requirement comes from the Bank Secrecy Act, codified at 31 U.S.C. §§ 5311 and following, and from the regulations issued under it by the Financial Crimes Enforcement Network, a bureau of the Treasury Department known as FinCEN. The shorthand used in the industry can obscure how the pieces fit together, so it is worth taking them one at a time.

Anti-money-laundering programs

A bank's AML program must be reasonably designed to ensure and monitor compliance with the Bank Secrecy Act. Under 31 C.F.R. § 1020.210, its elements include internal controls, independent testing, a designated compliance officer, training, and risk-based ongoing customer due diligence. Countering the financing of terrorism is a related but distinct objective: funds used for that purpose may have a lawful origin. The presence of standard AML or CFT questions does not establish that a particular customer is suspected of either activity. Sanctions compliance imposes additional obligations under the applicable sanctions authorities.

Customer identification

The customer identification rule, 31 C.F.R. § 1020.220, requires a risk-based program to identify customers and form a reasonable belief that the bank knows their true identity. Required identifying data include name, date of birth for individuals, address and an appropriate identification number, subject to the rule's alternatives and exceptions. Documentary and non-documentary verification may be used. The rule also addresses comparison against government-designated lists when such lists are designated and made available under that provision; separate OFAC screening obligations should not be confused with this CIP provision.

Beneficial ownership of legal-entity customers

For covered legal-entity customers, 31 C.F.R. § 1010.230 generally calls for identification and identity verification of each individual owning 25 percent or more of equity, if any, and one control person, subject to exemptions. FinCEN's February 13, 2026 Order FIN-2026-R001 permits institutions to limit this exercise to the customer's first account, occasions when prior information becomes unreliable, and risk-based CDD needs. It does not eliminate ongoing monitoring or the obligation to provide accurate information. The bank may retain procedures more demanding than the permitted relief.

The bank's beneficial-ownership rule should not be confused with a different obligation that received considerable publicity: the beneficial ownership information reporting requirement under the Corporate Transparency Act, 31 U.S.C. § 5336, which required many companies to report their owners directly to FinCEN. In March 2025 FinCEN issued an interim final rule removing that obligation for companies formed in the United States and for United States persons, leaving it applicable principally to certain foreign companies registered to do business in the United States. The status of that rule should be confirmed before reliance, as the Authority Register notes. What matters for present purposes is that the change did not affect the bank's own duty to identify the beneficial owners of its entity customers. A client who was told that "beneficial ownership reporting was abolished" should not infer that the bank will stop asking.

Customer due diligence and the customer risk profile

Customer due diligence, or CDD, is the continuing obligation to understand the relationship. The regulation requires a bank to understand the **nature and purpose of the customer relationship** in order to develop a customer risk profile, and to conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information. 31 C.F.R. § 1020.210(a)(2)(v).

The phrase "nature and purpose" is more important than it looks. When an account is opened, the bank records, in one form or another, what the account is for and what activity it expects: salary deposits and household spending, or business receipts of a certain size from certain places, or investment transfers. That expectation becomes the baseline against which later activity is measured. A transaction that would be unremarkable for one customer can prompt a review for another simply because it does not match the profile the bank recorded. Many clients never see the profile, and some do not remember the answers they gave when the account was opened. Chapter 5 explains why those answers should be retrieved before a later request is answered.

Enhanced due diligence

Enhanced due diligence, or EDD, is not a separate statute. It is the heightened review that a bank's own program requires for relationships it assesses as higher risk. Certain categories of enhanced review are prescribed by regulation, for example for private banking accounts for non-United States persons and for correspondent accounts for foreign financial institutions under 31 C.F.R. §§ 1010.610 and 1010.620. For most individual and small-business customers, however, EDD is a matter of the bank's risk-based judgment. It typically involves more detailed questions about source of wealth and source of funds, requests for supporting documents, and closer monitoring of transactions.

Transaction monitoring and screening

Banks run automated systems that monitor transactions against scenarios designed to detect patterns associated with money laundering and fraud, and that screen customers, counterparties and payment messages against sanctions lists. An alert generated by those systems is reviewed by an analyst, who may close it, escalate it, or ask the relationship manager to obtain more information from the customer. Many requests for information originate in this way. The customer does not see the alert, and the person who makes contact may not know exactly what generated it.

Onboarding, periodic reviews and event-driven reviews

It helps to distinguish three occasions for questions. At **onboarding**, the bank collects identification, beneficial-ownership and profile information. In a **periodic review**, the bank refreshes the file on a schedule set by its risk rating of the customer; higher-risk relationships are reviewed more often. In an **event-driven review**, something has happened that prompts a closer look: an alert, a change in activity, a news report, a request from a correspondent bank, a law enforcement inquiry, or a change in the customer's circumstances.

The distinction matters because the tone of a request rarely reveals which kind of review is under way. A periodic refresh and an event-driven escalation can arrive in identical language. The client should prepare every response as though it will be read carefully.

Why the bank is asking now

Clients frequently ask why a bank that processed similar transfers for years without comment is suddenly asking questions. There are several possible explanations, and more than one may apply. The bank's risk rating of the relationship may have changed because of a change in activity, geography or ownership. The bank may have updated its monitoring scenarios or its country-risk assessments. Sanctions or other legal developments may have changed the significance of a jurisdiction or institution that appears in the account's history. A correspondent bank may have asked the bank about a particular payment. Or the periodic review simply came due.

What the history does not show is that the bank previously approved the legal character of every transaction it processed. Banks process transactions under a risk-based program, not a guarantee. A transfer that cleared in an earlier year was not thereby declared lawful, and a customer should not rely on the fact of processing as evidence that a transaction raised no issue. Equally, a question asked now does not mean that the bank has concluded anything about the earlier transfers.

Principal authorities. 31 U.S.C. §§ 5311, 5318(h), (l); 31 U.S.C. § 5336; 31 C.F.R. §§ 1010.230, 1010.610, 1010.620, 1020.210, 1020.220; FinCEN, Customer Due Diligence Requirements for Financial Institutions, 81 Fed. Reg. 29398 (May 11, 2016).

Chapter 3. What can attract scrutiny

Banks and their regulators publish examples of activity that may warrant further review. The Federal Financial Institutions Examination Council's BSA/AML Examination Manual contains extensive lists, and FinCEN issues advisories on particular typologies. No list is exhaustive, and no single indicator establishes wrongdoing. The purpose of this chapter is to explain the more common features from the bank's point of view, and for each to identify a legitimate explanation and the evidence that would test it. The distinction between a **risk indicator** and **evidence of a violation** should be kept in mind throughout.

Activity inconsistent with the stated profile

The most common trigger is simple mismatch: the account is doing something different from what the bank was told it would do. A personal account opened for salary and household spending begins receiving business receipts. An account described as holding savings receives regular incoming wires from abroad. A company described as a local consultancy receives payments from a payment processor in another continent.

The legitimate explanations are usually obvious to the customer and invisible to the bank: a side business began, a family member sent support, the business expanded. The evidence that tests the explanation is documentary: contracts, invoices, processor reports, correspondence showing the change, and, most importantly, an explanation provided before the bank has to ask. Where the profile recorded at onboarding is simply out of date, updating it proactively is often the most effective step available.

Substantial changes in volume or pattern

A sharp increase in the number or value of transactions, a change from many small transactions to a few large ones, or the reverse, can generate alerts. A business with seasonal sales or product launches will show exactly this pattern. So will other things. Records that show the underlying transactions, such as sales reports with dates and amounts, allow a reviewer to distinguish between explanations.

Third-party transfers and pass-through activity

Funds that arrive from one person and leave promptly for another, with little retained, can resemble a funnel or pass-through account. Legitimate explanations include paying suppliers on behalf of a business, intra-family arrangements, or collecting funds for a joint purchase. The evidence needed is the relationship between the parties and the commercial or personal reason for the flow.

Third-country routing

Money that travels from its origin to the United States through an account in a third country attracts attention, particularly where the origin is a higher-risk jurisdiction. There can be entirely ordinary reasons: the owner held an account in the intermediate country, currency conversion was cheaper there, or direct transfers were unavailable. The route becomes harder to explain where the intermediate account belongs to someone else, where the routing has no commercial rationale, or where the legs of the journey are undocumented. Transfers between accounts of the same owner are the easiest to explain if the owner's name appears on every statement.

Commingling personal and business funds

Using a personal account for business receipts, or a business account for personal spending, makes activity harder to interpret and can conflict with the account terms. It is common among small businesses and is not itself unlawful. It does mean that the customer should expect questions and should be able to separate the two streams when asked.

Complex or changing ownership

Layered ownership, nominee arrangements, trusts, frequent changes in owners or signatories, and entities formed in jurisdictions with limited transparency all make it harder for a bank to identify who ultimately owns and controls the funds. The legitimate reasons for complexity, such as tax planning, estate planning, or investor structures, should be documented with organizational charts and governing documents.

Geographic exposure

Connections to jurisdictions subject to sanctions, identified as having strategic AML deficiencies, or associated with particular risks, lead to closer review. A connection may be the customer's nationality, residence, business location, counterparties, or the institutions through which funds pass. None of these is prohibited as such. Chapter 10 explains that nationality alone is not a sanctions issue, and that what matters is the identity and status of the persons and institutions involved on the dates of the transactions.

Cash, digital assets and payment intermediaries

Cash deposits, particularly in amounts just below reporting thresholds, attract attention for reasons explained in Chapter 7. Transfers to and from digital-asset exchanges attract attention because of the difficulty of tracing funds through them. Payment processors, marketplaces and money transmitters aggregate many underlying transactions into settlements, so that the bank sees the processor's name rather than the customers'. Each of these has legitimate uses. Each also means that the bank may need records from outside the bank to understand the activity.

Adverse information

A news report, court filing, regulatory action or online allegation concerning the customer or a related party can prompt a review. The information may be inaccurate, outdated, or about a different person with a similar name. The customer should be prepared to address it with documents, not with assertions about its unreliability.

Two features that deserve particular mention

An onboarding net-worth range that the documented income does not support. Account-opening questionnaires often ask customers to select a range for their net worth or annual income. Customers choose a range quickly, sometimes including assets held abroad or held jointly, and forget the answer. Years later, the bank compares the stated range with the income shown in the account or in documents the customer has provided and finds that the two do not match. The customer is then asked to explain wealth of a magnitude the bank's own records attribute to them. The first step is to retrieve what was actually stated, in what terms, and to prepare a schedule of the assets it was meant to describe: what they are, who owns them, how they were acquired and what liabilities stand against them.

A recently formed United States company offered as evidence of a much older business. Many clients continue a business begun abroad through a company formed after they move to the United States. That is entirely proper. The difficulty arises when the United States company's records are used, or understood by the bank, to explain wealth accumulated before the company existed. A company formed last year cannot explain a decade of savings. The accurate description distinguishes between the legal entity and the commercial activity: the business began in one form and one country, and is now conducted through a company formed on a stated date. The documents should show what, if anything, passed from the earlier business to the new company.

Changing explanations

Few things affect a review as much as an answer that changes after the bank pushes back. A customer may give an imprecise answer by telephone, see it recorded inaccurately, and later correct it in writing. The correction may be entirely honest. But a reviewer who sees an answer change only after challenge may read later material with more skepticism than it would otherwise receive. The practical conclusion is to answer substantive questions carefully and in writing from the start, and where an earlier answer was wrong, to say so directly, explain why, and support the correction with documents.

Principal authorities. FFIEC BSA/AML Examination Manual, Appendix F (Money Laundering and Terrorist Financing Red Flags); FinCEN advisories and alerts; 31 C.F.R. § 1020.320.

Chapter 4. Legal obligations, bank policies and commercial decisions

A request from a bank combines several different things, and it helps to separate them.

What the law requires

The law requires the bank to maintain the program described in Chapter 2, to verify identity, to identify beneficial owners of entity customers, to understand the nature and purpose of relationships, to monitor for and report suspicious activity, to file currency transaction reports, to keep records, to comply with sanctions, and to respond to lawful government process. It does not prescribe which documents a bank must request from a particular customer, how long a review must take, or whether a particular relationship must be continued. Those are matters for the bank's risk-based judgment.

What the account agreement permits

The deposit agreement between the customer and the bank typically permits the bank to request information, to restrict or delay transactions, to refuse transactions, and to close the account, often without giving reasons and sometimes on short notice. These contractual rights exist independently of any regulatory requirement. A bank may close an account because it cannot complete its due diligence, because the relationship falls outside its risk appetite, or because the cost of monitoring it exceeds its value. Chapter 24 discusses the consequences and Chapter 25 the limited remedies.

What internal policy requires

Each bank's internal policies translate the legal requirements into procedures: which customers are high risk, which documents are acceptable, when a review must be escalated, and when a relationship must be exited. These policies are not public. They vary between institutions, and they change. An outsider cannot know what a particular bank's policy requires, and this Guide does not assume that it does. Where the Guide says that a bank "may" treat something in a certain way, it is describing a common possibility, not a rule.

Commercial risk tolerance

Banks make commercial decisions about which relationships they can support, subject to contract and applicable law. Federal developments include Executive Order 14331 and the OCC/FDIC final rule published April 10, 2026, effective June 9, 2026. That rule removes reputation risk from those agencies' supervision and restricts specified agency pressure based on protected views or disfavored lawful activity. It regulates agency conduct; it does not itself impose a universal duty on private banks to maintain every account. Separate legal grounds for challenging a particular closure require their own analysis.

Who is asking

The person who contacts the customer is usually a relationship manager or a member of a customer outreach or due-diligence team. Behind that person may be a compliance analyst, a sanctions team, a fraud investigations unit, a financial intelligence unit, or the legal department. The contact person may not know why the request was generated, may not be permitted to say, and may have limited authority to grant extensions or accept particular documents.

Use the relationship manager to clarify what the bank needs and who can approve an extension or partial response. Ask for written confirmation of any agreement, including the new deadline and documents still outstanding. After a telephone conversation, keep a dated note and confirm the important points through the bank's secure channel. If an assurance concerns a final compliance decision, ask the manager to obtain confirmation from the team responsible for that decision.

The limits of what the bank will say

A bank will not generally explain which monitoring scenario was triggered, whether a report has been filed, whether a government agency has asked about the customer, or what its internal risk rating is. Some of this is protected by law, and Chapter 6 explains the confidentiality of suspicious activity reports. Much of it is simply internal. The customer's best course is to address the substance of what has been asked, and to ask for clarification of the scope of the request rather than the reasons for it.

Principal authorities. 31 U.S.C. § 5318(h); 31 C.F.R. § 1020.210; Uniform Commercial Code Article 4 as adopted in the relevant state; Executive Order 14331 (Aug. 7, 2025).

Chapter 5. Five questions behind a document request

Almost every request for information, however it is phrased, seeks to answer one or more of five questions. Identifying which question a request is really asking is the most useful step a client can take before gathering documents, because each question is answered by different evidence, and a document that answers one may say nothing about the others.

Inquiry	Central question	Typical evidence
Nature, purpose and expected activity	What is this relationship for, and what activity should the bank expect?	Business description, contracts, website, projected volumes, updated profile information

Inquiry	Central question	Typical evidence
Source of wealth	How did the customer come to have these assets over time?	Employment and business history, tax filings, sale agreements, inheritance and gift records, investment statements
Source of funds	Where did this particular payment or balance come from?	Transaction-level records tracing the funds from origin to the account
Ownership and control	Whose money is it, and who can direct its use?	Account-opening documents, signature cards, powers of attorney, entity records, agreements between spouses or partners
Legal compliance	Were the activities, transfers and filings lawful and properly reported?	Tax returns and transcripts, information returns, licenses, sanctions screening records, professional analysis

Nature, purpose and expected activity

This is the baseline question discussed in Chapter 2. If the account is doing what the bank expected, other questions are less likely to arise. If it is not, the first step is to explain what the account is now used for and why. A written description of the business or personal circumstances, with expected volumes and counterparties, often resolves more than any individual document.

Source of wealth

Source of wealth asks how a person came to have their assets in general terms: a career, a business, an inheritance, the sale of a property, investment returns. It is a narrative supported by documents over time. A tax return is useful evidence of source of wealth because it shows that income was declared to a tax authority. It is rarely sufficient on its own, because it covers one year, it may show gross receipts rather than profit, and it says nothing about what happened to the money afterwards.

Where the bank asks about accumulated wealth, match the evidence to the amount, ownership and period in question. One exceptional sale or inheritance may explain substantial wealth; recurring business receipts may require several years of evidence. Account for opening assets and liabilities, savings, living costs, taxes, gifts, distributions, investment changes and valuation dates. Chapter 19 separates a net-worth reconstruction from tracing cash available for transfer.

Source of funds

Source of funds asks something narrower and harder: where the particular money in the account came from. It is a tracing question, answered only by records that follow the funds from their origin to the account. For a salaried employee, the answer may be a payslip matched to a deposit. For a business, it may require a chain of records: customer payments, processor settlements, receiving-bank credits, currency conversion, onward transfers, and the final credit.

Ownership and control

Ownership and control asks whose money it is and who can direct its use. These can differ. A person may own funds in an account in someone else's name, may hold signature authority over an account whose funds belong to another, or may share ownership with a spouse or partner under an arrangement not reflected on the account documents. Each arrangement has different consequences for the bank's review and, as Chapter 13 explains, for foreign-account reporting, where signature authority alone can create an obligation. The accurate answer distinguishes between joint ownership, beneficial interest, authority to transact, payable-on-death designations, and informal access.

Legal compliance

The fifth question is whether the underlying activities, transfers and filings were lawful and properly reported. Banks do not generally audit their customers' tax compliance, but they may ask for evidence that income was reported, that required licenses were held, or that transactions did not involve sanctioned parties. This is the question on which a customer's answer is most likely to stray into unsupported legal conclusions, and on which professional analysis is most often needed.

What a document establishes, and what it does not

The most important analytical habit in this field is to ask, for every document, which proposition it supports and which it leaves unanswered. The following matrix illustrates the point with documents commonly offered to banks.

Document	What it can support	What it does not establish by itself
United States income tax return	What the return declares for the year; filing requires separate evidence	That the return was accepted without change; source of particular funds; wealth accumulated in earlier years
IRS account transcript	Filing and processing history; assessed amounts	The detail of the income; foreign reporting compliance
Foreign tax declaration	Declared figures and tax regime; filing or acceptance only with corroborating records	That tax was paid; net profit (where the regime taxes gross receipts); that it is the final amended version; the identity of payers; that the funds in the account derive from the declared income
Foreign bank statement	Balances and transfers in that account; the institution holding it	The underlying customers or sources; lawful routing; the status of the institution on the dates shown
Payment processor settlement report	Recorded sales or settlement data, depending on the report; reconcile detailed exports and control totals	Tax compliance; accumulated wealth
Company formation documents	Existence of the entity, date of formation, stated managers	Who owns the economic interest; what work was performed; business history before formation

Document	What it can support	What it does not establish by itself
Sale or inheritance documents	Legal terms of sale, gift or inheritance; actual receipt requires payment or distribution evidence	How the proceeds were subsequently held or moved

The retail business with wholesale evidence

A recurring difficulty illustrates why tracing matters. Consider a composite client who sells online courses to many thousands of customers, each paying a modest amount. The business is retail. But the documents most readily available to prove it are wholesale in character: an annual tax declaration showing a single figure, and a bank statement showing a small number of large transfers from an intermediate account abroad to the United States.

A tax total and an intermediary statement may leave the retail origin unproved even when the explanation is accurate. Connect transaction-level sales, processor reports, settlement credits and books using control totals. Evidence has no universal ranking: a platform export may establish transactions but not ownership, and a registry may establish an entity but not operations. Evaluate who created each record, when, whether it is complete and what it actually proves. Preserved websites and independent archives can corroborate the business model but ordinarily do not establish that every reported sale occurred.

Digital businesses without conventional premises

A business may legitimately operate through a home office, cloud systems and contractors, without a shop, inventory or employees. Document the actual model: product catalogue, dated customer terms, domains, platform ownership, administrator access, contractor deliverables, customer support and payment flows. Distinguish an audience from paying customers and lifetime sales from annual sales. Do not manufacture leases, payroll or invoices to resemble a conventional business.

Digital metadata can support a chronology but has limits. An export creation date does not establish the date of the underlying transaction, who accessed a portal, where they were, or whether the file was altered. A printed electronic-signature statement is not cryptographic verification. Preserve native exports, receipts and signatures where available and explain what was independently checked.

The lesson is not that a large transfer is suspicious. Processors settle in batches, and business owners move accumulated proceeds periodically. The lesson is that a transit-account statement is not necessarily inconsistent with retail income; it is simply insufficient, on its own, to show where the money came from. Chapter 19 returns to this example and shows the reconciliation that connects the two.

Principal authorities. 31 C.F.R. §§ 1010.230, 1020.210(a)(2)(v); FFIEC BSA/AML Examination Manual, Customer Due Diligence and Enhanced Due Diligence sections.

II. HOW FINANCIAL INFORMATION BECOMES VISIBLE

This Part explains how information held by a bank can reach government agencies and other institutions: suspicious activity reports, the other reports in the same database, the legal channels for government access, and the information that moves between banks, across borders and through public sources. Its governing distinction is between information being available, information being reviewed, and an investigation beginning.

Chapter 6. Suspicious Activity Reports

What a report is

A suspicious activity report, or SAR, is a confidential report that a financial institution files with FinCEN when the applicable legal criteria are met. For banks the obligation is at 31 U.S.C. § 5318(g), 31 C.F.R. § 1020.320 and, for national banks, the parallel rule of the Office of the Comptroller of the Currency at 12 C.F.R. § 21.11. Other federal banking regulators have equivalent rules.

In summary, a bank must report a transaction conducted or attempted by, at or through the bank that involves or aggregates at least $5,000 in funds or other assets where the bank knows, suspects or has reason to suspect that the transaction involves funds derived from illegal activity or is intended to disguise such funds; is designed to evade Bank Secrecy Act requirements, including through structuring; has no business or apparent lawful purpose or is not the sort in which the customer would normally be expected to engage, and the bank knows of no reasonable explanation after examining the available facts; or involves the use of the bank to facilitate criminal activity. The banking agencies' rules add categories, including insider abuse involving any amount, and thresholds that depend on whether a suspect can be identified. A report is generally due within thirty calendar days after the initial detection of facts that may constitute a basis for filing, extendable to sixty days where no suspect has been identified.

Two features of those criteria deserve emphasis. First, the standard is **suspicion, not proof**. A bank does not need to conclude that a crime occurred. Second, the criteria include activity that has **no apparent lawful purpose** or does not fit the customer's expected activity **where the bank knows of no reasonable explanation**. That is the connection between a request for information and a report. A customer who provides a documented explanation gives the bank something it can weigh. A customer who provides nothing, or provides an explanation that conflicts with the bank's observations, leaves the bank with activity it cannot explain.

Banks may also report voluntarily. Section 5318(g)(3) provides a broad civil-liability safe harbor for qualifying disclosures. The statute contains no express good-faith condition; judicial interpretations and the precise challenged conduct matter. A customer should not assume that an inaccurate report creates a viable damages claim. In the Second Circuit, Lee v. Bankers Trust Co., 166 F.3d 540 (2d Cir. 1999), rejects an implied good-faith limitation.

What a report contains

The report is an electronic filing, commonly called FinCEN Form 111, with defined fields. It identifies one or more subjects, with such information as the bank has: names, addresses, identification numbers, dates of birth, occupations, account numbers and relationships to the bank. It records the amount involved, the date or date range, the instruments and products used, and the institutions involved. It contains a long list of categories that the filer ticks to classify the suspected activity, including structuring, money laundering, several varieties of fraud, identity-related concerns, unauthorized access and others; filers are instructed to select every category that applies.

The most important part is the **narrative**, a free-text section in which the filer explains the grounds for suspicion. FinCEN's narrative guidance asks filers to address who is conducting the activity, what instruments and mechanisms are involved, when and where the activity occurred, why the filer thinks it is suspicious, and how it was conducted. A narrative typically describes the customer's stated business and expected activity, the activity actually observed, any explanations the bank received, and any inconsistencies the bank regards as unresolved.

The narrative is the institution's account of its concerns, rather than a customer-approved transcript. It may include paraphrases and unresolved discrepancies. The customer ordinarily cannot inspect it, but can correct the underlying factual record with supported information. Whether the bank files, amends or supplements a SAR remains its decision under the applicable rules.

Two cautions about interpretation apply to anyone who later learns what a report contains. An amount recorded in a report is not a finding that the money is criminal proceeds, taxable income or tax owed; its meaning depends on the filing instructions and the narrative. And a category ticked to classify a concern does not establish the elements of the offense it names.

Attachments, corrections and continuing reports

The April 2026 SAR instructions permit one Excel-compatible CSV attachment of no more than one megabyte, typically containing transaction data; they do not permit a collection of tax-return PDFs or ordinary supporting-document attachments. The bank may describe those documents in its narrative and retain them for production under the supporting-documentation rules. Check the filing instructions in force when a report is made.

The October 9, 2025 interagency FAQs explain that a separate post-SAR review is not mandatory and that the BSA does not require documentation of a decision not to file. For institutions electing the continuing-activity schedule, the guidance describes a 90-day activity period and filing by 120 days after the preceding related SAR. These are not recurring 180-day intervals. Risk-based monitoring and the applicable filing duties continue; the customer cannot infer a reporting timetable from the timing of bank questions.

What a report is not

A SAR is not a charge, adjudication, penalty or determination that the reported amount is criminal proceeds. It may provide an investigative lead, support an existing inquiry or receive no individual follow-up. Filing and account closure are separate decisions; neither proves the other occurred.

Confidentiality

A bank, and any director, officer, employee or agent, may not disclose a SAR or any information that would reveal its existence. 31 U.S.C. § 5318(g)(2); 31 C.F.R. § 1020.320(e). Government officials are subject to parallel restrictions. The confidentiality exists to protect investigations and the institutions that report.

There is no ordinary customer procedure to obtain a SAR, confirm that one exists or obtain assurance that none exists. Counsel ordinarily cannot establish that no report was filed. Ask about underlying facts and outstanding requirements rather than requesting prohibited confirmation. The mere asking of a question is not itself evidence of wrongdoing.

Confidentiality does not, however, prevent the bank from discussing the underlying facts. The interagency Joint Statement of September 2, 2026 confirms that a bank may discuss with a customer the underlying transactions, facts and documents, and may communicate about an intended account closure, while keeping the existence of any report confidential. The customer's questions should therefore be directed to the substance: what information the bank needs, which transactions it wishes to understand, and what remains outstanding.

No customer appeal

FinCEN publishes procedures by which a filing institution may correct or amend a report. There is no published procedure by which a customer may contest a report, attach a rebuttal, have one removed, or obtain clearance. Treasury's Privacy Act regulations exempt the relevant FinCEN systems of records from the ordinary access and amendment provisions. 31 C.F.R. § 1.36; 5 U.S.C. § 552a. The report records suspicion rather than a decision, so there is no decision to appeal.

That does not mean that counsel can never place information before an agency. Where there is a concrete, objective problem, such as mistaken identity or transactions attributed to the wrong person, or where a formal remediation route described in Part V is the right course, a direct approach may be justified. But an unsolicited explanation sent to FinCEN because a report *might* exist is generally unwise. It confers no protection, answers no identified accusation, and may draw attention to information that no one had reviewed.

Where an explanation does have effect is **with the bank**. The bank decides whether to file, what any narrative says, and whether to make further or corrected filings. A supported explanation provided to the bank may influence its assessment. The customer will not be told whether it did.

Principal authorities. 31 U.S.C. § 5318(g); 31 C.F.R. §§ 1.36, 1020.320; 12 C.F.R. § 21.11; FinCEN SAR Electronic Filing Instructions; FinCEN, Guidance on Preparing a Complete and Sufficient SAR Narrative; Interagency SAR FAQs (October 9, 2025); Joint Statement on SAR Confidentiality (September 2, 2026).

Chapter 7. Other financial reports and their uses

Suspicious activity reports sit in a database that contains many other reports filed under the Bank Secrecy Act. Several of them concern clients directly, and several are frequently misunderstood.

Currency transaction reports

A bank must file a currency transaction report, or CTR, for each deposit, withdrawal, exchange or other payment or transfer of **currency** of more than $10,000, and must aggregate multiple currency transactions by or on behalf of the same person during one business day. 31 C.F.R. §§ 1010.311, 1010.313. The key word is currency: physical cash. A wire transfer of $50,000 is not a currency transaction and does not generate a CTR. A CTR is routine; it implies no suspicion at all. Banks file millions of them each year.

Structuring

Structuring is the separate and serious offense of breaking up currency transactions to evade the CTR requirement, for example by depositing $9,500 on several successive days in order to keep each deposit below the threshold. It is prohibited by 31 U.S.C. § 5324 whether or not the underlying money is lawful. Since 1994, the statute has not required proof that the person knew structuring was unlawful; it requires the purpose of evading the reporting requirement. Structuring is also one of the most common grounds for a SAR.

Two points should be kept in proportion. Ordinary transaction sizes do not establish structuring: a business that routinely deposits $8,000 because that is its daily takings is not structuring. And the reporting threshold is not a permission threshold: nothing prevents a customer from depositing $15,000 in cash, which will simply be reported. The advice to a client who handles cash is therefore to deposit it as it arises, without regard to the threshold, and to keep records of its source.

Reports of foreign bank and financial accounts

The Report of Foreign Bank and Financial Accounts, or FBAR, is filed by the account holder rather than the bank, on FinCEN Form 114, and it is filed with FinCEN rather than the IRS. It therefore sits in the same database as SARs and CTRs. Chapter 13 explains who must file. For present purposes the point is that an FBAR is itself a Bank Secrecy Act report, and that authorized users of the database can compare FBAR information with other reports.

A search that finds no FBAR does not establish a violation. Names are matched imperfectly, filings may be made under different identifiers, and the obligation depends on residence, ownership, signature authority and thresholds that a search cannot determine. Conversely, an FBAR that has been filed is a statement to the government about foreign accounts, and it should be consistent with what the filer says elsewhere.

Form 8300

A person engaged in a trade or business who receives more than $10,000 in cash in one transaction or related transactions must report it on Form 8300, filed with the IRS and FinCEN. I.R.C. § 6050I; 31 C.F.R. § 1010.330. The definition of cash for this purpose includes certain cashier's checks, bank drafts, traveler's checks and money orders with a face amount of $10,000 or less received in particular transactions. Businesses that sell high-value goods, such as car dealers, jewelers and real-estate professionals, encounter this obligation frequently.

Reports of international transportation of currency

A person who physically transports, mails or ships currency or monetary instruments of more than $10,000 at one time into or out of the United States must file a report, FinCEN Form 105. 31 U.S.C. § 5316; 31 C.F.R. § 1010.340. Travelers file through the customs declaration process. Failure to report can lead to seizure and forfeiture of the funds, which Chapter 11 addresses.

Tax information reporting

Separately from the Bank Secrecy Act, banks and other payers file tax information returns, such as Forms 1099 for interest and other payments to United States persons and Forms 1042-S for certain payments to foreign persons, and foreign financial institutions report United States account holders under FATCA, discussed in Chapter 9. These reports go to the IRS and are matched against tax returns. They are a routine and highly effective means by which unreported income is detected.

Retention and the survival of records

Banks must retain SARs and supporting documentation for five years from filing, and must retain many other Bank Secrecy Act records for five years. 31 C.F.R. §§ 1010.430, 1020.320(d). FBAR filers must keep records of reportable accounts for five years. 31 C.F.R. § 1010.420. Those rules govern what the bank and the filer must keep. They do not establish a date on which government-held information is deleted. Clients should not assume that closing an account, correcting a filing or the passage of five years erases the government's record.

Report	Filed by	Trigger	What it does and does not imply
SAR	Financial institution	Suspicion meeting regulatory criteria	Records suspicion; not a finding; confidential
CTR	Financial institution	Cash transactions over $10,000 in a business day	Routine; no suspicion implied
FBAR (Form 114)	United States person with foreign accounts	Aggregate maximum value over $10,000	Filer's own report; absence in a search is not proof of violation
Form 8300	Trade or business	Cash receipts over $10,000	Routine business report
FinCEN Form 105	Person transporting currency	Over $10,000 crossing the border	Failure to report risks seizure
Tax information returns	Payers, including foreign institutions under FATCA	Payments and account balances	Matched against tax returns

Principal authorities. 31 U.S.C. §§ 5313, 5314, 5316, 5324; I.R.C. § 6050I; 31 C.F.R. §§ 1010.306, 1010.311–1010.313, 1010.330, 1010.340, 1010.350, 1010.420, 1010.430.

Chapter 8. Government access to bank information

The purpose of the system

The Bank Secrecy Act states its own purpose: to require reports and records that are highly useful in criminal, tax and regulatory investigations, risk assessments and proceedings, and in intelligence and counterintelligence activities. 31 U.S.C. § 5311. Availability to government agencies is the object of the system rather than a side effect. That is the reason the Guide places so much emphasis on accuracy.

Access to the BSA database

FinCEN provides authorized users at federal, state and local agencies with access to Bank Secrecy Act reports under agreements that specify permitted purposes, training and monitoring. The IRS is among the most significant users; its Internal Revenue Manual describes the use of BSA information in examinations, collection and criminal investigations, subject to disclosure rules. Homeland Security investigative components and other law enforcement agencies also have access through authorized channels. That does not mean every officer of every agency can search the database, and shared membership of the Treasury Department does not by itself confer unrestricted access.

Three events should be kept distinct. Information may be **available** to authorized users. It may be **reviewed** by a particular user for a particular purpose. And a review may lead an agency to **begin an inquiry**. Filing makes information available; it does not mean that anyone has read it, and reading it does not mean that anyone has decided to act.

SAR supporting documentation

The rule most relevant to what a customer sends a bank concerns supporting documentation. A bank must retain the documentation supporting a SAR and must make it available, upon request, to FinCEN, to appropriate law enforcement agencies and to its federal banking supervisor. 31 C.F.R. § 1020.320(d). FinCEN guidance explains that such documentation is deemed filed with the report, so that production does not require a subpoena or other legal process. FinCEN Guidance FIN-2007-G003 (June 13, 2007). The Right to Financial Privacy Act, which ordinarily requires notice to a customer before federal authorities obtain bank records, contains exceptions that accommodate this reporting framework. 12 U.S.C. §§ 3413, 3420; 31 U.S.C. § 5318(g).

The scope of the rule should be stated precisely. Supporting documentation is material that supports the reported activity. It does not automatically include the bank's entire file on the customer; other records require another lawful basis for disclosure. But a tax declaration, bank statement or cover letter provided in response to the very inquiry that led to a report is the kind of material that may qualify.

The practical conclusion is not that a client should refuse to answer. It is that **anything sent to a bank should be prepared on the assumption that its audience may be larger than the bank.** It should be accurate, described accurately, and accompanied by nothing that goes beyond what the evidence supports.

Section 314(a) requests

Under section 314(a) of the USA PATRIOT Act and 31 C.F.R. § 1010.520, FinCEN may, on behalf of federal, state, local and certain foreign law enforcement agencies investigating terrorism or significant money laundering, require financial institutions to search their records for accounts and transactions of specified subjects and to report matches. The request is confidential; the institution may not disclose it. A 314(a) request identifies whether an institution holds relevant accounts; the agency then uses other process to obtain records.

Subpoenas, summonses and warrants

Agencies may obtain bank records through grand jury subpoenas, administrative subpoenas under a variety of statutes, search warrants and court orders. The Right to Financial Privacy Act regulates many of these requests, generally requiring notice to the customer and an opportunity to challenge, subject to exceptions including grand jury subpoenas and delayed notice where notice would jeopardize an investigation.

The IRS has its own summons power. I.R.C. §§ 7602, 7609. A third-party summons to a bank for a taxpayer's records ordinarily requires notice to the taxpayer, who may petition to quash. A **John Doe summons**, under I.R.C. § 7609(f), may be served to obtain information about unidentified taxpayers belonging to an ascertainable group, but only with prior court approval on a showing that there is a reasonable basis to believe the group may have failed to comply with the tax laws and that the information is not readily available elsewhere. The IRS has used John Doe summonses to obtain records of customers of particular banks, card programs and digital-asset platforms.

Important limits qualify these summaries. RFPA principally protects defined customers, including individuals and qualifying small partnerships; ordinary corporations and LLCs do not automatically receive the same protections. IRS summons notice has substantial exceptions, including certain collection summonses under § 7609(c)(2)(D). In Polselli v. IRS, 598 U.S. 432 (2023), the Court rejected an added requirement that the delinquent taxpayer have a legal interest in the summoned account. Do not assume that every third-party bank demand creates a right to notice or a petition to quash.

Referrals

Supervisors and agencies may also refer information to one another under their own authority. The OCC supervises national banks and can refer matters it identifies. OFAC receives blocking and reject reports directly from institutions, and it may refer matters for criminal investigation. Each agency acts under its own statute; a referral does not give the receiving agency authority it does not otherwise have.

Privacy protections, and their limits

Customers do have protections. The Right to Financial Privacy Act, the confidentiality provisions of the Internal Revenue Code at I.R.C. § 6103, the restrictions on use and disclosure of BSA information, and the Fourth Amendment all limit how information is obtained and used. Those protections are real, and counsel will assert them where they apply. But they are not a reason to assume that information given to a bank will stay with the bank.

Principal authorities. 31 U.S.C. §§ 5311, 5318(g), (k); 12 U.S.C. §§ 3401–3423; I.R.C. §§ 6103, 7602, 7609; 31 C.F.R. §§ 1010.520, 1020.320(d); FinCEN Guidance FIN-2007-G003; Internal Revenue Manual 4.26.14.

Chapter 9. Other banks, foreign reporting and external information

A common misconception is that information stays where it was created: that a closed account at one bank is invisible to another, that money moved through a third country loses its history, or that a foreign account is beyond the reach of United States authorities. Each of these assumptions is unsafe. This chapter describes the principal channels, and their limits, so that clients neither overestimate nor underestimate them.

Section 314(b) information sharing

Section 314(b) of the USA PATRIOT Act and 31 C.F.R. § 1010.540 provide a safe harbor for financial institutions that register with FinCEN to share information with one another for the purpose of identifying and reporting activities that may involve money laundering or terrorist activity. Sharing is voluntary and conditional. The institutions must have registered, must use the information only for permitted purposes, and must protect its confidentiality. The safe harbor does not authorize one bank to disclose that it has filed a SAR, and it does not give banks general access to one another's customer files.

Within those limits, the channel is significant. Where funds move between two banks and one of them is investigating, it may ask the other what it knows about the counterparty. A client who has had difficulties at one bank should not assume that another bank will never learn of them.

Correspondent banking

International payments in dollars generally pass through correspondent accounts held by foreign banks at United States banks. The United States correspondent screens the payment messages and may ask the foreign bank about a transaction, the parties, or the underlying purpose. Questions from a correspondent are one of the reasons a foreign bank may ask its own customer for information, and one of the reasons a payment may be delayed or returned.

Foreign-bank records through United States process

Under 31 U.S.C. § 5318(k)(3), as strengthened by the Anti-Money Laundering Act of 2020, the Secretary of the Treasury or the Attorney General may subpoena a foreign bank that maintains a correspondent account in the United States for records relating to that account or to any account at the foreign bank, including records maintained outside the United States. The records must relate to an investigation of a violation of United States criminal law, a Bank Secrecy Act violation, a civil forfeiture action, or an investigation under 31 U.S.C. § 5318A. Criminal tax and sanctions investigations can qualify; an ordinary civil tax examination is not independently listed.

The foreign bank may seek relief in court, but a conflict with foreign secrecy law is not by itself a sufficient ground to quash, and a failure to comply can lead to penalties and to the termination of the correspondent relationship. The statute restricts notification to the account holder. The power targets the foreign bank, but the records it produces can be used to investigate the bank's customers.

Two qualifications keep this in proportion. The power exists; that does not mean it has been used in any particular case, and nothing suggests it is used routinely. And a single onward transfer from a foreign bank does not necessarily reveal every earlier payment into the foreign account. What the provision does establish is that routing money through another country does not remove it from the reach of United States investigators.

FATCA reporting by foreign institutions

Under the Foreign Account Tax Compliance Act, I.R.C. §§ 1471–1474, foreign financial institutions report accounts held by United States persons to the IRS, either directly on Form 8966 or through their own governments under intergovernmental agreements. A United States person's foreign accounts are therefore frequently known to the IRS through the foreign institution, independently of anything the person files. The existence and effect of an intergovernmental agreement varies by country and should be checked for the relevant period.

The Common Reporting Standard

Most other countries exchange financial account information under the OECD Common Reporting Standard. The United States does not participate. For a client resident in the United States, the practical relevance is different: a foreign institution may report the client's account to the tax authority of another country in which the client is, or is treated as, tax resident. Clients with ties to more than one country should assume that their accounts may be reported in each.

Specialty consumer reports

Banks commonly report certain account closures and adverse account history to specialty consumer reporting agencies, of which ChexSystems and Early Warning Services are the best known. Other banks consult these reports when deciding whether to open accounts. Consumers are entitled under the Fair Credit Reporting Act to obtain a free disclosure of their file from nationwide specialty consumer reporting agencies at least annually, and to dispute inaccurate information. 15 U.S.C. §§ 1681j, 1681i. Chapter 24 recommends that clients whose accounts have been closed obtain these reports.

Public and external sources

Banks and investigators also use corporate registries in the United States and abroad, court records, regulatory actions, sanctions lists, news reports, websites and social media, professional profiles, archived web pages, complaints from customers, and information from counterparties. Each is a potential source requiring evaluation. None is necessarily accurate, and they are not connected into a single database. But they mean that a client's public description of a business, including earlier versions captured by archiving services, may be compared with what the client tells a bank.

Whistleblowers

Two federal programs reward individuals who provide original information leading to successful enforcement. The anti-money-laundering whistleblower program at 31 U.S.C. § 5323, expanded in 2022 to include violations of sanctions laws, covers Bank Secrecy Act and sanctions matters. The IRS whistleblower program at I.R.C. § 7623 covers tax matters above specified thresholds. Former employees, contractors, business partners and former spouses are the people most likely to hold records about a client's affairs. Clients should assume that information known to such persons could reach an agency.

The second bank

Clients often mention, late in the conversation, that another bank asked for documents some time ago and that the request went unanswered, or that another account was closed. That history matters for several reasons.

Not answering a private bank's request is not an offense. It does not establish that any report was made, or that anything was wrong. But a bank that asks and receives no answer is left with activity it cannot explain, which may contribute to a report or a closure. If that bank did report, the relevant chronology may begin earlier than the current review, which can affect the timing rules for the disclosure routes discussed in Part V. The content of the earlier request also matters: a routine request for statements is different from a request that identified a specific transaction or inconsistency, and the latter may be relevant to any later assessment of what the client knew and when. And the earlier bank may hold records that support the client's account.

Counsel should therefore ask about every institution that has asked questions, restricted an account, returned a payment or closed a relationship; what exactly was asked; how the request was received and handled; whether any oral response was given; who closed the account; and what reasons, if any, were stated. An incomplete but honest recollection is more useful than a tidy one.

Records survive account closure

Closing an account does not end the bank's retention obligations, does not withdraw any report, and does not prevent a later request from an agency for records. A client who closes an account in the hope of ending a review ends only the relationship.

Principal authorities. 31 U.S.C. §§ 5318(k)(3), 5323; I.R.C. §§ 1471–1474, 7623; 15 U.S.C. §§ 1681g, 1681i, 1681j; 31 C.F.R. §§ 1010.540, 1010.670.

III. UNDERLYING LEGAL EXPOSURE

This Part examines the legal questions that a banking review can bring into view: sanctions in accounts and payment chains, restricted and blocked funds, tax residency and foreign income, foreign-account and foreign-asset reporting, entity and trust information returns, immigration consequences, and the standards that separate a mistake from a crime. Each is a question to be answered, not a conclusion.

Chapter 10. Sanctions exposure in accounts and payment chains

Sanctions issues may appear expressly in a request or emerge from account statements, payment chains, ownership records and the client's location. Relevant conduct must be assessed against the applicable restrictions and authorizations on its date. Civil liability can arise without knowledge, but the number of transactions is not automatically the number of legally established violations. This chapter explains the main questions without presuming that a foreign account or transfer was prohibited.

Who is bound: United States persons

United States sanctions programs administered by the Office of Foreign Assets Control, or OFAC, principally bind **United States persons**. The definition varies slightly between programs but typically includes United States citizens and lawful permanent residents wherever located, entities organized under United States law and their foreign branches, and **any person in the United States**. See, for the Russia-related program, 31 C.F.R. § 587.314.

The last limb surprises many clients. A foreign national who is physically present in the United States is a United States person while present, regardless of visa status and regardless of tax residency. Sanctions status and tax status are different questions answered by different tests: a person may be a nonresident alien for tax purposes and a United States person for sanctions purposes on the same day. Presence brings an individual within the definition while present; it does not by itself create a continuing worldwide status after departure. A company formed in any state is a United States person from formation.

Certain programs also reach foreign entities owned or controlled by United States persons, and conduct by non-United States persons that causes a violation by a United States person or that occurs in the United States. Those extensions are program-specific.

What is prohibited, and what is not

Nationality alone does not establish a sanctions prohibition. Russia is not subject to a comprehensive countrywide embargo, and some Russian accounts and commercial relationships remain lawful. Do not generalize that conclusion to every sanctioned jurisdiction: countrywide and territorial restrictions, blocked interests, services bans and investment restrictions may prohibit conduct even where no counterparty appears by name on a list.

The converse must not be overstated either. The absence of a listed counterparty does not make a transaction permissible, because programs contain several kinds of measures:

- **Blocking.** Property and interests in property of designated persons, listed on the Specially Designated Nationals and Blocked Persons List (the SDN List), are blocked when in the United States or in the possession or control of a United States person. United States persons may not deal in blocked property.
- **Sectoral and directive-based restrictions.** Some entities are subject only to restrictions on particular kinds of dealings, such as new debt or equity, without being blocked.

- **Correspondent and payable-through restrictions.** Some foreign financial institutions are subject to restrictions on maintaining correspondent accounts rather than full blocking.
- **New-investment and services prohibitions.** Some programs prohibit United States persons from making new investments in a country or from providing specified categories of services to persons located there.
- **Territorial measures.** Some programs prohibit most dealings involving particular regions.

The measure applicable to a particular transaction must be identified rather than assumed.

Accounts at institutions designated after they were opened

Under OFAC's Russia guidance, an account held by a U.S. person at a blocked Russian financial institution generally constitutes blocked property unless exempt or authorized. This may occur when the bank is designated or when the account comes within U.S.-person possession or control. Identify the actual blocking authority, ownership, dates and applicable exceptions; a sectoral restriction alone is not full blocking. The foreign bank's willingness to process instructions does not establish that its U.S.-person customer may lawfully use the account. See OFAC FAQ 1080.

A designation made after a transaction does not make that earlier transaction unlawful. And designations change in both directions: persons are removed from the list as well as added. The analysis of historical conduct therefore turns on **the status of the institution on the date of each transaction**, established from dated sources such as the Federal Register notice, OFAC's recent-actions announcement and archived list entries, rather than a screen run today.

The Fifty Percent Rule

Under OFAC's Fifty Percent Rule, an entity owned fifty percent or more, directly or indirectly, **in the aggregate**, by one or more blocked persons is itself blocked, whether or not it appears on any list. The aggregation is the part most often missed: two blocked persons each owning thirty percent produce a blocked entity. A search for a company's name that returns nothing does not establish that the company is not blocked.

The rule matters for payment chains. Businesses that receive customer payments through processors, acquirers, marketplaces and platforms may have used entities owned by banking groups. If such an entity was owned to the relevant extent by blocked persons, it was itself blocked property, and each settlement through it would require separate analysis, independently of any question about the business's own bank account. That is why counsel will ask for the exact legal names of every processor and platform, and will trace their ownership as it stood at the relevant times.

Informational materials

The International Emergency Economic Powers Act excludes from the President's authority the regulation of the importation or exportation of information or informational materials, including publications, films, recordings, photographs and artworks. 50 U.S.C. § 1702(b)(3), often called the Berman Amendment. Sanctions regulations implement and interpret the exclusion, and OFAC construes it with limits: it does not generally extend to materials not fully created and in existence at the time of the transaction, to substantive or artistic alteration or enhancement of informational materials, or to services that are not themselves the export or import of informational materials.

For content businesses, identify the product and transaction under the applicable program: existing recordings, commissioned production, live instruction and bundled subscriptions may require different treatment. An informational-materials analysis does not, without more, resolve banking or blocked-property restrictions. Determine whether the particular payment is exempt or independently authorized; do not infer blanket permission to operate an account at a blocked institution merely because some content qualifies.

A lawful business using a prohibited payment channel

It follows from the preceding sections that a business can be entirely lawful in what it sells and still face a sanctions question about how it was paid. The two analyses should be kept apart. A conclusion that the content was informational material says nothing about whether the processor or bank was blocked; a conclusion that the bank was not designated says nothing about whether a services prohibition applied to the underlying activity.

Strict liability and the scale of exposure

IEEPA civil penalties may be imposed without proof that the person knew the conduct was prohibited. Under 31 C.F.R. Part 501, Appendix A, § V.B.2.a.v, the maximum is the greater of $377,700 or twice the amount of the underlying transaction, per violation. Identify the applicable assessment-date adjustment and each alleged violation before calculating exposure. A statutory ceiling is not a predicted penalty, and transaction volume alone is not a legally sufficient penalty calculation.

OFAC's Enforcement Guidelines distinguish egregious from non-egregious cases and consider disclosure, cooperation, remediation, compliance measures and prior history. Possible responses include no action, a cautionary letter, a finding of violation, a penalty, or referral. The facts and governing standards determine the response; the Guide does not assign probabilities to these outcomes.

Criminal liability under 50 U.S.C. § 1705(c) is different: it requires willfulness, meaning knowledge that the conduct was unlawful and a decision to proceed.

The limitation period for civil and criminal sanctions enforcement was extended from five to ten years by legislation enacted in April 2024, and OFAC extended its recordkeeping requirement to ten years to match. 50 U.S.C. § 1705(d); 31 C.F.R. § 501.601. The extension's application to conduct that occurred before enactment is addressed in the author's sanctions treatise.

A module on the Russia program

Because many clients who encounter these questions have ties to Russia, the Russia-related program deserves particular attention. The following is a summary; the author's separate treatise contains the detailed analysis and the dated instruments.

Architecture. The current program rests principally on Executive Order 14024 of April 15, 2021, as amended, and on the Russian Harmful Foreign Activities Sanctions Regulations at 31 C.F.R. Part 587. Earlier Ukraine-related measures under Executive Orders 13660 through 13662 and 13685, implemented at 31 C.F.R. Part 589, continue alongside it. Executive Orders issued in 2022 added prohibitions on new investment in the Russian Federation by United States persons, on certain imports, and on the exportation of specified categories of services to persons located in Russia. Executive Order 14114 of December 2023 authorized sanctions on foreign financial institutions that conduct or facilitate significant transactions involving Russia's military-industrial base.

Designated banks. Most major Russian banks have been designated at various dates since February 2022, and the dates differ from bank to bank. Sberbank and Alfa-Bank, for example, were fully blocked in April 2022; Gazprombank was designated in November 2024. Some institutions were first subject only to correspondent-account or sectoral restrictions and were fully blocked later. The Russian National Settlement Depository and the Moscow Exchange were designated in June 2024, with consequences for securities held through the Russian custody chain. The status of a particular bank on a particular date must be established from the dated instrument, not inferred from its current status or its reputation.

Directives. Directive 4 under Executive Order 14024 prohibits United States persons from engaging in transactions involving the Central Bank of the Russian Federation, the National Wealth Fund and the Ministry of Finance, without blocking them. Other directives impose debt, equity and correspondent-account restrictions on named entities. Each directive's scope is defined by its own terms.

Services determinations. Determinations under Executive Order 14071 prohibit the exportation from the United States, or by a United States person, of specified services to any person located in Russia, including accounting, trust and corporate formation, and management consulting services, and later architecture, engineering, and certain information technology and software services. These prohibitions can affect advisers who serve Russian clients and United States persons who provide services to businesses located in Russia, including their own. They are subject to exceptions and general licenses that must be checked for the relevant dates.

Personal accounts and closure. OFAC has issued general licenses addressing the closure of accounts held by individuals at blocked Russian financial institutions and the transfer of remaining funds, and other licenses addressing matters such as pension and personal payments, tax payments and fees to Russian authorities, and certain telecommunications and internet-based services. Each has conditions, exclusions and version histories. The license relied upon must be the one in force on the date of the transaction.

Russian law. A transaction authorized under United States law may still be restricted under Russian currency-control and counter-sanctions measures, which have limited transfers abroad by residents and non-residents at various times. Russian counsel should be consulted before any closure or transfer is attempted, and nothing in the United States analysis answers the Russian question.

Nationality is not the issue. None of this makes Russian nationality a sanctions problem, and a United States person may lawfully hold many kinds of relationships with Russia. What matters is the identity and status of each counterparty and institution on each date, the nature of the activity, and the location and status of the person acting.

What counsel needs to assess the position

The analysis depends entirely on facts that clients often do not initially provide:

- the exact legal name and country of each bank, processor, acquirer, platform and intermediary;
- their ownership, traced to the ultimate parents, as it stood at the relevant times;
- their status on the date of each transaction, including any designation, delisting or restriction;
- the client's own status and physical location on each date;
- the nature of the underlying activity and whether any exclusion, exemption or general license applied.

Clients should not attempt this analysis themselves, and should not rely on what they have read about a particular bank. The answer depends on the specific entity, its owners and the date. Nor should clients make any statement to a bank about sanctions compliance until the analysis is done. Telling counsel the names of the institutions costs nothing and unlocks the entire assessment.

The sequencing point

A bank that asks for statements from foreign accounts is asking, among other things, for the names of the institutions that held them and the counterparties that paid into them. Where there is any plausible sanctions question, those institutions should be identified and screened for the relevant dates before the statements are produced. The purpose is not concealment. It is to ensure that the decision about what to produce, and how to describe it, is made with knowledge of what the documents will show. Chapter 20 explains how to prevent this preparation from becoming an unjustified delay.

Principal authorities. 50 U.S.C. §§ 1701–1706, including § 1702(b)(3) and § 1705; Executive Order 14024, 86 Fed. Reg. 20249 (Apr. 19, 2021); 31 C.F.R. Parts 501 and 587; 31 C.F.R. § 587.314; OFAC, Revised Guidance on Entities Owned by Persons Whose Property and Interests in Property Are Blocked (Aug. 13, 2014); Pub. L. No. 118-50 (Apr. 24, 2024) (21st Century Peace through Strength Act).

Chapter 11. Restricted, rejected, blocked and seized funds

"The bank has frozen my account" can mean many different things, and the remedy depends entirely on which one it is. This chapter distinguishes the common situations, identifies what the client must establish in each, and explains the reporting obligations that some of them carry.

A taxonomy of holds

Situation	What it is	Who can release it	First steps
Internal bank restriction	The bank has limited activity under its account agreement pending a review	The bank	Establish scope; respond to the review; request access for essential payments
Processing delay	A payment is held for screening or verification	The bank or correspondent	Provide requested payment information; confirm the parties and purpose
Commercial return	A payment is returned for operational or policy reasons	The sending or receiving bank	Obtain the stated reason; distinguish from a sanctions rejection
Sanctions rejection	A United States person has refused to process a transaction that would violate sanctions, although no blocked property is involved	Not applicable; the funds return to the sender	Obtain the notice; assess whether a disclosure question arises
OFAC blocking	Property in which a blocked person has an interest is frozen in a blocked account	Release under applicable authority, such as a license, delisting or correction of mistaken blocking	Identify the blocked interest; consider licensing, delisting or challenge
Attachment or garnishment	A creditor has obtained court process restraining the account	The court or the creditor	Review the process; consider exemptions and challenge
Tax levy	The IRS or a state has levied the account for unpaid tax	The taxing authority	Contact the authority immediately; consider collection alternatives
Seizure or forfeiture	Law enforcement has seized funds as proceeds or instruments of crime, or for a reporting violation	The court or the seizing agency	Observe claim deadlines strictly; obtain counsel at once

Internal restrictions

Most restrictions encountered by individuals are internal. The bank has used its contractual rights to limit or stop transactions while it completes a review, or pending closure. The restriction is lifted by the bank, and the path to lifting it is usually a complete and accurate response to the review. Where essential payments are affected, it is reasonable to ask the bank in writing whether particular payments can be permitted.

Rejected and returned payments

A **rejected** transaction, in sanctions terms, is one that a United States person declines to process because it would violate sanctions, in circumstances where no blocked property is involved, for example because it would breach a services or territorial prohibition. The funds return to the sender. A United States person that rejects a transaction must report it to OFAC within ten business days. 31 C.F.R. § 501.604.

A **commercial return**, by contrast, may occur for many reasons: a closed beneficiary account, an incorrect account number, a correspondent's policy, missing payment information. It carries no sanctions implication by itself. The client should obtain the reason given and should not assume which kind of return occurred.

The distinction matters for disclosure. OFAC's Enforcement Guidelines provide that a person's notification does not qualify as a voluntary self-disclosure where a third party is required to notify OFAC of the apparent violation, or a substantially similar one, because the transaction was blocked or rejected, and does so. That exclusion can apply regardless of when OFAC receives the report and whether the person knew of it. Counsel will therefore ask every client with a sanctions question whether any transfer was ever blocked, frozen, rejected, returned or delayed, anywhere, and what reason was given.

Blocked property

Blocking prohibits unauthorized dealings in covered property; it does not transfer title to the government. Holding requirements depend on the property and program. Under 31 C.F.R. § 587.203, blocked funds generally belong in qualifying interest-bearing accounts, but paragraph (f) allows funds already held outside the United States to remain in the same type of account or instrument with commercially reasonable interest. Paragraph (g) does not compel liquidation of tangible property or securities, and paragraph (h) prohibits arrangements giving blocked persons prohibited benefit or access. Do not move property merely to satisfy an assumed U.S.-account requirement.

Section 501.603 generally requires an initial report within ten business days after property becomes blocked and an annual report by September 30 for property held on June 30. Identify the actual holder or person controlling property abroad and any applicable exception. Unblocking reports are separate: § 501.603(b)(3)(i)(C) generally excepts unblockings expressly authorized by a general or specific license unless the license requires reporting. Read the license and current regulation before filing; an unnecessary government report can itself contain consequential representations.

The remedies for blocked property are licensing, delisting of the designated person where appropriate, and in limited cases judicial review. Chapter 23 discusses licensing. Clients should note one distinction in particular: **a license authorizing a future transaction does not resolve a past violation.** A general license authorizing the closure of accounts at certain blocked institutions and the transfer of remaining funds to the account holder is a way to end a continuing problem lawfully. It does not retroactively authorize earlier dealings, and it does not cure a missed blocked-property report.

Russia-related General License 50 authorizes specified transactions incident to closing a nonblocked individual's account at a financial institution blocked under Executive Order 14024 and transferring the remaining assets in a lump sum to the account holder. It does not authorize continued ordinary business use or cure past violations. Its exclusions, the receiving institution and other sanctions restrictions must be checked. FAQ 1081 retains a reporting instruction for individuals who previously filed a blocking report, while the later regulatory exception described above points in a different direction and GL 50 contains no express separate-report condition. Resolve that question from the controlling text and current guidance before acting; neither silence nor a protective report is an automatic solution.

Attachments, levies and seizures

A creditor with a judgment may restrain an account through court process; New York practice, for example, uses restraining notices and executions under CPLR Article 52, with exemptions for certain categories of funds. A federal tax levy under I.R.C. § 6331 served on a bank generally requires the bank to hold the funds for twenty-one days before remitting them, I.R.C. § 6332(c), which provides a short window to contact the IRS. A seizure for forfeiture may be civil or criminal; civil forfeiture proceedings under 18 U.S.C. § 983 impose strict deadlines for claims, and missing them can forfeit the funds without any finding on the merits.

These situations are outside the core of this Guide, but clients sometimes describe them as "the bank froze my account." The first question is always: who restrained the funds, under what authority, and what does the notice say?

What to ask and what to preserve

Whatever the situation, the client should obtain and preserve every notice, record the date and the person who communicated it, ask in writing for the authority or reason for the hold, and avoid any attempt to move funds around it. A restriction that is misunderstood is often handled in the wrong forum.

Principal authorities. 31 C.F.R. §§ 501.603, 501.604, Part 501 App. A § I.I; I.R.C. §§ 6331, 6332(c); 18 U.S.C. §§ 981, 983; N.Y. C.P.L.R. art. 52.

Chapter 12. Tax residency and foreign business income

The most consequential tax question for many internationally mobile clients is not how much income they earned but whether they were United States tax residents when they earned it. Residency determines whether worldwide income is taxable, and it determines whether many of the reporting obligations in Chapters 13 and 14 applied. It must be determined for each person and each year.

Citizens and the green card test

U.S. citizens generally remain subject to worldwide-income taxation wherever they live. A noncitizen may become a resident under the green-card test or substantial-presence test, subject to exceptions and elections. If only the green-card test applies, the first-year starting date is generally the first day physically present in the United States as a lawful permanent resident, not automatically January 1. If both tests apply, compare their starting dates; prior-year residency can also alter the result. The substantial-presence test ordinarily requires 31 current-year days and a three-year weighted total of 183 days. Ending resident status requires a separate analysis; departure or expiration of a card is not by itself enough. I.R.C. § 7701(b); IRS, Residency Starting and Ending Dates.

Exempt individuals and excluded days

Days in the United States as an **exempt individual** are not counted. Exempt individuals include certain foreign-government-related individuals, teachers and trainees in J or Q status, students in F, J, M or Q status, and professional athletes competing in charitable events. I.R.C. § 7701(b)(5). For students, the exemption is ordinarily available for any part of five calendar years; a student present for longer must establish that they do not intend to reside permanently and have substantially complied with their visa. Days may also be excluded for a medical condition that arose in the United States and for certain commuters and travelers in transit.

The substantial-compliance condition

The student exemption is not automatic. The statute describes a student as an individual temporarily present under the relevant visa who **substantially complies with the requirements for being so present**. I.R.C. § 7701(b)(5)(D). The regulations provide that an individual who has engaged in activities prohibited by the immigration laws that could result in the loss of the relevant visa status is not treated as substantially complying. Treas. Reg. § 301.7701(b)-3.

The formulation deserves attention. The test asks whether the conduct could have led to loss of status. It does not require that status was actually revoked or that the immigration authorities ever acted. It follows that proof that a visa remained valid, or that a later change of status was approved, is not a complete answer to the tax question. It equally follows that business ownership, high revenue, corporate filings or a signature on formation documents do not by themselves establish unauthorized work. Immigration law generally permits a student to own a business passively; what may be prohibited is performing unauthorized work in the United States. The question is what the individual actually did, where and when, and it must be answered from records rather than recollection: platform administrator logs, instructions to contractors, calendars, communications and the business's contracts.

The consequence of a substantial-compliance failure, if established, must be traced year by year. Unauthorized work during part of the student period may mean that the day exclusion is unavailable for the period affected; if the uncounted days are then counted and the substantial presence test is met, residency for that year follows. One disputed act does not automatically convert every year into a resident year. The IRS makes this determination under the tax law and does not need a prior immigration finding.

Form 8843

Exempt individuals ordinarily file Form 8843 to claim the exclusion of days. Whether these forms were filed should be established for every relevant year. The regulations deny the exclusion to certain categories of individuals who fail to file the required statement. Treas. Reg. § 301.7701(b)-8. The current Form 8843 instructions describe that consequence for professional athletes and medical-condition exclusions; failure to file should not be described to a student client as automatically eliminating the exemption. Missing forms are nevertheless a compliance gap to be investigated and corrected, and the IRS retains means to challenge the exclusion.

Elections, dual status and treaties

Some individuals may elect resident status, for example under the first-year election in I.R.C. § 7701(b)(4) or the election available to a nonresident spouse of a citizen or resident under I.R.C. § 6013(g). An individual who is a resident for only part of a year is a dual-status taxpayer for that year, with special filing rules. Where an individual is resident under the law of another country as well, an income tax treaty may contain tie-breaker rules; claiming treaty benefits requires disclosure on Form 8833 in many cases. Treaty availability must be checked for the relevant country and year; for example, the United States suspended the operation of most provisions of its income tax treaty with Russia with effect from August 16, 2024.

Where the income is sourced

Nonresidency is not a complete answer to United States tax. A nonresident alien is taxable on income effectively connected with a United States trade or business and on certain United States-source fixed or determinable income. Under I.R.C. § 861(a)(3), compensation for personal services **performed in the United States** is United States-source income regardless of where the customer, payer or bank is located, subject to a narrow exception for small amounts. A nonresident who performs services from a home in the United States for foreign customers may therefore have United States income and a filing obligation.

Characterize the actual transaction before applying source rules. Personal services are generally sourced where performed. Digital content may involve a sale or license of a copyrighted article, a transfer of copyright rights, services, or a cloud transaction; a recording is not automatically a property sale for every tax purpose. Rights transferred, delivery arrangements and bundled obligations matter. Apply the relevant regulations and effective dates, including Treas. Reg. §§ 1.861-18 and 1.861-19 where applicable.

A worked residency chronology

Consider a composite couple who arrived in the United States in the same year, one in student status and one as the student's dependent, and who later changed to an employment-based immigrant classification. The analysis proceeds year by year and person by person.

Year	Student spouse	Dependent spouse
Arrival year	Days in student status excluded if substantially compliant; Form 8843 expected	Days in dependent status also excluded as an exempt individual in the corresponding category, subject to the same conditions
Years two to four	Same analysis; any unauthorized work in the United States must be identified by date	Work authorization depends on the dependent category; any work performed must be examined separately
Fifth calendar year	Last year of the ordinary five-year student window	Same analysis for the dependent category

Year	Student spouse	Dependent spouse
Year of permanent residence	First U.S. presence as a lawful permanent resident if only that test applies; compare other residency rules	Determine that spouse’s own starting date under all applicable tests
Following years	Resident; worldwide income; FBAR and Form 8938 obligations assessed	Resident; separate assessment of each obligation

The outcome for any year depends on facts that must be established from records: the exact status held on each date, the days present, whether any activity prohibited by the immigration laws occurred, and whether any election was made. If the student spouse is a nonresident for the early years, the couple's foreign accounts may not have been reportable on FBARs for those years, but a single-member company owned by that spouse may have carried a Form 5472 obligation, and any services performed in the United States may have produced United States-source income. If substantial compliance fails for part of a year, the days in that part are counted, and residency must be recalculated.

Even where the substantial-presence arithmetic is met, test any available closer-connection exception under § 7701(b)(3)(B), including its fewer-than-183-actual-days condition, foreign tax home, required filing and disqualifying steps toward permanent residence. Tax and FBAR treatment do not necessarily follow a treaty position identically. A W-8BEN or W-9 supplied to a bank records a certification; it does not create the underlying status. Review and update the form under its instructions when circumstances change.

Characterization, expenses and self-employment tax

A foreign gross-receipts figure cannot simply be adopted as U.S. taxable profit. Determine allowable expenses, timing, currency translation, ownership and entity classification under U.S. law. Expenses may reduce the base, but their amount and deductibility require evidence. Self-employment tax is a separate calculation that depends on status, net earnings and any applicable totalization agreement; nonresident-alien rules must also be checked.

Foreign tax credits and gross-receipts taxes

Clients naturally expect foreign tax paid on the same income to reduce United States tax. It may not. A foreign levy is creditable under I.R.C. § 901 only if it is an income tax within the meaning of the regulations, which since 2022 impose requirements including a net-gain requirement that looks at whether the tax base permits recovery of significant costs. Treas. Reg. § 1.901-2. A regime that taxes gross receipts at a flat rate with no deduction for expenses may not qualify. A tax may alternatively qualify under I.R.C. § 903 as a tax in lieu of an income tax, subject to its own requirements. The IRS has provided temporary relief permitting taxpayers to apply the pre-2022 regulations for certain years, in Notice 2023-55, extended indefinitely by Notice 2023-80 until further guidance; the current status of that relief should be confirmed. Where no credit is available, a deduction under I.R.C. § 164 is a weaker alternative. This is a technical question worth real money and should be resolved by a tax professional before any correction is filed.

Each person, each year

The analysis must be conducted separately for each spouse and each year. Spouses may hold different visa categories, one principal and one dependent, with different work authorization and different residency outcomes. A decision to file separately or jointly has consequences explained in Chapter 13. And a change of immigration status in the middle of a year may produce a dual-status year with its own rules.

Principal authorities. I.R.C. §§ 861(a)(3), 864, 871, 901, 903, 164, 6013(g), 6114, 7701(b); Treas. Reg. §§ 1.901-2, 301.7701(b)-1 through -9; IRS Notices 2023-55 and 2023-80; IRS Publication 519.

Chapter 13. FBAR and foreign financial asset reporting

The United States requires persons within its tax and reporting system to report foreign accounts and foreign assets on several separate forms, each with its own threshold, filing mechanism and penalty. **Satisfying one does not satisfy another.** Paying all tax due, filing a joint return, or engaging an accountant does not by itself answer whether the foreign-account reporting obligations were met.

Who must file an FBAR

An FBAR is generally required when a U.S. person has a financial interest in, or signature or other authority over, foreign financial accounts and their aggregate value exceeds $10,000 at any time during the calendar year, subject to exceptions. U.S. persons include citizens, qualifying residents and domestic entities. Apply 31 C.F.R. § 1010.350's residency rules, which refer to I.R.C. § 7701(b) with specified geographic treatment; do not assume that a treaty income-tax position or spousal tax election resolves FBAR status. Physical presence alone is not the sanctions-style FBAR test.

Financial interest and signature authority

A person has a **financial interest** in an account of which they are the owner of record or holder of legal title, whether the account is maintained for their own benefit or for others, and in certain accounts held by agents, nominees, and entities that the person owns or controls above specified thresholds. A person has **signature or other authority** if they can control the disposition of money or assets in the account by direct communication with the institution, whether alone or with others.

Signature authority operates independently of ownership. A person who can direct the funds in a foreign account may have to report it even though none of the money is theirs. This matters for spouses, family members, employees and business partners. Where one spouse can sign on the other's foreign accounts, or on the accounts of a family business, that spouse may have a reporting position of their own. Exceptions exist for certain officers and employees of regulated and publicly traded entities, and a person with signature authority only may, in some cases, answer fewer questions on the form, but the obligation to consider filing remains.

Aggregate maximum value, and transient balances

Apply the aggregate-value threshold and maximum-account reporting rules in the FinCEN instructions. Determine each reportable account's maximum value using periodic statements if they fairly reflect the greatest value, supplementing them for known intervening peaks. Convert the maximum under the prescribed year-end Treasury rate or the permitted alternative where no Treasury rate exists. A zero closing balance does not remove an account. The amount reported for an account is not its annual revenue or total turnover.

Two consequences are frequently misunderstood. First, large annual revenue does not by itself create an FBAR obligation, because revenue is a flow and the test concerns the maximum balance. Second, brevity is not an exception: a balance that existed for a single day counts. Money that passed through an account quickly may still have produced a reportable maximum, and several small accounts may together exceed the threshold. The position must be established account by account and year by year from statements.

Joint accounts and the spousal exception

Each joint owner generally has a financial interest and must report. A spouse need not file a separate FBAR if all of the spouse's reportable accounts are jointly owned with the filing spouse, the filing spouse reports them on a timely FBAR, and both spouses sign FinCEN Form 114a authorizing the joint filing. If a spouse has any reportable account that is not jointly owned, the exception does not apply. The exception concerns the FBAR; it is unrelated to whether the spouses file a joint income tax return.

Filing, amendments and records

The FBAR is ordinarily filed electronically with FinCEN separately from the tax return; an approved exemption is required for paper filing. The ordinary due date is April 15, with automatic extension to October 15. Generally retain the required account information for five years from the FBAR due date, subject to specific rules such as employer retention for certain signature-authority filers and any longer preservation obligation. Keep filed reports, acknowledgment numbers, amendment history and retained Form 114a authorizations. A filing acknowledgment proves submission, not substantive completeness.

Penalties

The civil penalty for a non-willful violation is capped by statute at $10,000 as adjusted for inflation; the 2025-adjusted figure retained for 2026 under OMB Memorandum M-26-11 is $16,536. In *Bittner v. United States*, 598 U.S. 85 (2023), the Supreme Court held that the non-willful penalty accrues per report, not per account, a significant limitation in the taxpayer's favor. No non-willful penalty may be imposed if the violation was due to reasonable cause and the account is properly reported. 31 U.S.C. § 5321(a)(5)(B)(ii).

For a willful civil violation, the statutory maximum is the greater of the applicable inflation-adjusted fixed amount ($165,353 under the 2025 adjustment retained for 2026) or 50 percent of the relevant account balance at the time of violation. It is a ceiling, not a mandatory assessment. Civil willfulness can include recklessness under applicable case law; criminal willfulness under 31 U.S.C. § 5322 requires its own showing. Confirm the adjustment applicable when a penalty is assessed and examine mitigation and reasonable-cause issues separately.

The IRS assesses FBAR penalties within six years of the violation. 31 U.S.C. § 5321(b). That period runs independently of the income tax assessment rules discussed below.

A worked FBAR example

Assume a U.S.-resident taxpayer owns account A, which peaks at $6,000, has signature authority over a family company's account B, which peaks at $3,000, and owns account C, which receives a single $250,000 credit before being emptied a week later. Account C's balance actually reaches $250,000; this is not merely $250,000 of turnover. Assume no reporting exception applies.

The taxpayer exceeds the threshold and reports all three accounts, using each account's maximum value and the appropriate ownership or authority category. Her husband has no obligation solely because they are married. If his only foreign-account connection is signature authority over B, whose maximum is $3,000, that fact alone does not exceed his $10,000 aggregate threshold. If his other reportable accounts cause his own aggregate value to exceed $10,000, he generally must report B as well. Evaluate each spouse's complete account inventory independently.

Form 8938

Form 8938, required by I.R.C. § 6038D, is filed with the income tax return and reports **specified foreign financial assets**, a broader category that includes foreign accounts and also certain foreign securities, interests in foreign entities and foreign financial instruments not held in an account. It applies to specified individuals, including citizens and resident aliens, and certain domestic entities.

The thresholds depend on filing status and residence. For taxpayers living in the United States, the thresholds are more than $50,000 on the last day of the year or more than $75,000 at any time during the year for unmarried taxpayers and married taxpayers filing separately, and more than $100,000 and $150,000 respectively for married taxpayers filing jointly. Higher thresholds apply to taxpayers living abroad.

The consequence of filing status deserves emphasis. **A married taxpayer who files separately faces the lower threshold, so filing separately can make a Form 8938 obligation more likely.** Filing separately has genuine advantages, including avoiding the joint and several liability that a joint return creates. The point is not that separate filing is wrong, but that its reporting consequences should be understood when the choice is made.

Failure to file a required Form 8938 can produce a $10,000 initial penalty and up to $50,000 in additional continuation penalties after notice, subject to statutory conditions and defenses. A 40 percent accuracy-related penalty may apply to a qualifying underpayment attributable to undisclosed foreign financial assets. These are distinct provisions. A taxpayer not required to file an income tax return generally need not file Form 8938, and duplicate-reporting exceptions may reduce the detail required without eliminating the obligation to identify other filings.

Blocked or inaccessible foreign accounts must still be tested under FBAR and Form 8938 rules. Blocking does not itself erase a financial interest or substitute an OFAC report for either filing. Record the actual balance and valuation method; do not assign zero solely because withdrawals are unavailable. A U.S. bank account is not foreign merely because its owner is foreign or its funds originated abroad.

Feature	FBAR (FinCEN Form 114)	Form 8938
Filed with	FinCEN, electronically, separately from the return	IRS, attached to the income tax return
Who	United States persons, including entities	Specified individuals and certain domestic entities
What	Foreign financial accounts, including signature authority	Specified foreign financial assets; not signature-only accounts
Threshold	Aggregate maximum value over $10,000	$50,000/$75,000 or higher, depending on status and residence
Penalty authority	31 U.S.C. § 5321	I.R.C. § 6038D
Limitation	Six years from the violation	Separate tax and penalty periods; § 6501(c)(8) may extend tax assessment

Why an unfiled information return keeps the assessment period open

Ordinarily the IRS has three years after a return is filed to assess additional tax. Under I.R.C. § 6501(c)(8), where a taxpayer fails to furnish information required under specified international reporting provisions, including Forms 8938, 5471, 5472, 8865 and 3520, the assessment period for the return does not expire until three years after the information is furnished. Where the failure is due to reasonable cause and not willful neglect, the extension is limited to the items related to the failure. The provision governs the assessment of tax; FBAR penalties run on their own six-year period. A failure to file an income tax return at all is governed by I.R.C. § 6501(c)(3), under which the period does not begin.

The practical point is that for any year in which a required information return was not filed, the period during which the IRS can revisit the return may not have begun to close. Establishing what was and was not filed is therefore more urgent than clients usually assume.

Different clocks for assessment and enforcement

Income tax assessment, civil information-return penalties, FBAR assessment and collection, criminal prosecution and OFAC enforcement have separate periods. Section 6501(c)(8) extends the period for tax related to specified information failures; it is not a universal limitation rule for every information-return penalty. Section 6501(c)(3) addresses unfiled income tax returns, and fraud or substantial omissions can change other periods. FBAR civil assessment ordinarily has six years, while § 5321(b)(2) supplies a separate civil collection period. Do not treat a five-year bank retention period as a defense or a safe destruction date.

For IEEPA, the April 24, 2024 ten-year extension requires transition analysis for older conduct; it does not simply revive every historically expired claim. Agreements to toll a period and case-specific statutory rules may change the date. Counsel should maintain a separate limitation schedule stating the authority, event that starts time, possible extensions, and documents supporting each date. Criminal periods require offense-specific analysis, including 18 U.S.C. § 3282 and I.R.C. § 6531 where applicable.

Principal authorities. 31 U.S.C. §§ 5314, 5321, 5322; 31 C.F.R. §§ 1010.350, 1010.420, 1010.821; I.R.C. §§ 6038D, 6501(c)(3), (c)(8), 6662(j); *Bittner v. United States*, 598 U.S. 85 (2023); FinCEN Form 114 instructions; IRS Form 8938 instructions.

Chapter 14. Businesses, trusts, gifts and investments

A client does not need to know form numbers to recognize an issue. This chapter is organized by what the client owns or does. Before any filing obligation is assigned, two things must be established: how each entity is classified for United States tax purposes, and what transactions actually occurred.

Entity classification comes first

Determine classification under Treas. Reg. §§ 301.7701-2 and -3 before assigning a return. A domestic eligible LLC ordinarily defaults to disregarded status with one owner and partnership status with two or more, unless a valid election changes the result. Foreign eligible entities have different default rules, including rules based on members' limited liability; certain foreign entities are per se corporations. A foreign individual entrepreneurship that is not a separate entity may be the individual's direct activity and may qualify as a foreign branch for reporting purposes.

A statement that "the company filed its return" is ambiguous until classification is known. It could describe a Schedule C within an individual return, a partnership return, a corporate return, or a pro forma return with Form 5472 attached. Each has different consequences.

A United States company with a foreign owner

A domestic disregarded entity wholly owned by one foreign person is treated as a corporation for § 6038A reporting and recordkeeping. If it has reportable transactions, it generally files Form 5472 with a pro forma Form 1120. Contributions, distributions, formation-related transactions and dealings with related parties can qualify even if no income tax is due. The $25,000 penalty and continuation provisions require form- and failure-specific analysis. Foreign ownership alone should not be described as an unconditional annual filing requirement without testing transactions and exceptions.

This obligation is frequently overlooked because the owner files nothing else with respect to the company, and because it applies precisely when the owner is **not** a United States person. A foreign national who forms a single-member company before becoming a tax resident may therefore have a Form 5472 obligation for the period in which they were a nonresident, even if every other analysis in Chapter 12 is favorable. Individual and entity obligations must be assessed separately.

Foreign businesses owned by United States persons

A United States person who owns or controls a foreign business may have reporting obligations depending on its classification:

– **Form 5471** for certain officers, directors and shareholders of foreign corporations. I.R.C. §§ 6038, 6046.
– **Form 8858** for United States persons owning foreign disregarded entities or operating foreign branches. I.R.C. § 6038.
– **Form 8865** for certain interests in foreign partnerships. I.R.C. §§ 6038, 6038B, 6046A.
– **Form 926** for certain transfers of property to foreign corporations. I.R.C. § 6038B.

Penalties differ by statutory reporting duty. Certain failures involving Forms 5471, 8858 or 8865 can carry $10,000 initial penalties and continuation penalties, but other categories use percentage-based rules. In particular, § 6038B can impose 10 percent of the property's fair market value for a failure to report a covered transfer, ordinarily capped at $100,000 unless intentional disregard applies. Do not assign a uniform $10,000 penalty to Form 926 or every Form 8865 failure. Foreign-corporation income inclusions and other substantive tax rules also require separate review under the law applicable to the year.

A foreign sole proprietorship or individual entrepreneurship that becomes a United States person's business when the person becomes a tax resident may bring a Form 8858 obligation from that date, as a foreign branch.

Foreign trusts, gifts and inheritances

A United States person who creates or transfers property to a foreign trust, who is treated as the owner of a foreign trust, or who receives a distribution from a foreign trust must generally report on **Form 3520**, and a foreign trust with a United States owner must file **Form 3520-A**. I.R.C. §§ 6048, 6677. A United States person who receives gifts or bequests from a nonresident alien individual exceeding $100,000 in a year must also report them on Form 3520, with lower, inflation-adjusted thresholds for gifts from foreign corporations and partnerships. I.R.C. § 6039F.

The penalties are significant: for trust reporting, the greater of $10,000 or a percentage of the amount involved; for foreign gifts, five percent of the gift per month, up to twenty-five percent. Gifts and inheritances are common explanations for source of wealth; if a client relies on them in a bank response, the corresponding reporting should be checked at the same time.

Foreign investment funds

A United States person who holds shares in a passive foreign investment company, which includes most foreign mutual funds and many foreign pooled investment products, may be required to file **Form 8621** and is subject to a special and often punitive tax regime. I.R.C. §§ 1291–1298. Foreign bank "investment accounts" frequently hold such products. The regime is technical and should be reviewed by a tax professional whenever foreign investment products appear in a client's statements.

A checklist by activity

If the client	Consider	Principal authority
Owns a single-member United States LLC and is not a United States person	Form 5472 with pro forma Form 1120	I.R.C. § 6038A; Treas. Reg. § 1.6038A-1(c)
Owns or operates a foreign unincorporated business	Form 8858 (foreign branch or disregarded entity)	I.R.C. § 6038
Owns shares in or is an officer of a foreign corporation	Form 5471; possibly Form 926	I.R.C. §§ 6038, 6046, 6038B
Holds an interest in a foreign partnership	Form 8865	I.R.C. §§ 6038, 6046A
Received large gifts or inheritances from abroad	Form 3520	I.R.C. § 6039F
Is connected with a foreign trust	Forms 3520 and 3520-A	I.R.C. §§ 6048, 6677
Holds foreign funds or pooled products	Form 8621	I.R.C. § 1298(f)
Holds foreign accounts or assets	FBAR; Form 8938	31 U.S.C. § 5314; I.R.C. § 6038D

Principal authorities. I.R.C. §§ 1291–1298, 6038, 6038A, 6038B, 6039F, 6046, 6046A, 6048, 6677; Treas. Reg. §§ 1.6038A-1, 301.7701-2, 301.7701-3; instructions to the forms named.

Chapter 15. Immigration consequences and cross-file inconsistencies

Immigration law is not the subject of this Guide, but it intersects with banking and tax questions in ways that clients rarely anticipate. The same facts, such as what work a person performed, how much a business earned, or who owns it, may be described in a bank questionnaire, a tax return and a sworn immigration filing. This chapter explains the principal intersections and the difference between a legitimate difference and a real discrepancy. Immigration counsel should be involved whenever these questions arise.

Ownership is not work

Immigration law distinguishes between **owning** a business and **working** in the United States. Many nonimmigrant categories, including student status, permit passive ownership of a business, including a foreign business, but do not permit unauthorized employment or self-employment in the United States. 8 C.F.R. § 214.2(f) (students). A statement that a person is the sole owner of a company, or that contractors performed the work, does not resolve the question. The question is what the person personally did, from where, and when.

The evidence that answers it is documentary: instructions to contractors and their timestamps, platform administrator logs, calendars, session schedules, communications, and the business's contracts with platforms, processors and contractors. Filings made for unrelated purposes, such as trademark applications or copyright registrations that state who created or controls material, are useful precisely because they were made for another purpose and are dated.

Principal and dependent status

Dependent classifications differ: some prohibit employment, some permit it only with authorization, and some spouses are employment-authorized incident to qualifying status. Formation documents and titles are evidence of formal acts, not conclusive proof of either passive ownership or authorized work. Examine what each person actually did, where, when and under which authorization; neither registered-agent status nor a manager title supplies a categorical immigration answer.

Petitions that describe achievement

Some immigration classifications require evidence of achievement. The extraordinary-ability immigrant classification, EB-1A, permits a person to petition for themselves on Form I-140, and the regulatory criteria include evidence of **high salary or other significantly high remuneration** and, for the arts, **commercial successes** shown by sales or receipts. 8 C.F.R. § 204.5(h)(3). The O-1 nonimmigrant classification requires a United States employer or agent to petition, and authorizes work only for the petitioner and the petitioned activity. 8 C.F.R. § 214.2(o).

Where a petition presented revenue, audience or earnings as evidence, those statements were made in a sworn federal filing. They should be compared with the tax returns and with what has been said to a bank. Where status was obtained by adjustment within the United States, the adjustment application, Form I-485, and its supporting documents contain the applicant's own account of employment and activity. That account may be the best available evidence of what work was performed, or the most difficult, depending on what it says. Counsel should read the complete immigration file before advising on what is said to a bank about the business, its scale or its history.

Unauthorized work is not fraud

Unauthorized employment is a violation of status. It is not fraud. A finding of fraud or willful misrepresentation under INA § 212(a)(6)(C)(i), 8 U.S.C. § 1182(a)(6)(C)(i), which carries a permanent inadmissibility bar subject to limited waivers, requires a willful misrepresentation of a material fact made to procure an immigration benefit. Such a misrepresentation is ordinarily found in a written filing, but material oral statements at an interview or port of entry can also qualify. The two concepts should not be conflated, and clients commonly assume that the more serious applies when it does not.

Relief for certain employment-based applicants

Under INA § 245(k), 8 U.S.C. § 1255(k), an applicant for adjustment in certain employment-based categories who meets the statutory conditions is relieved of specified bars arising from unauthorized employment or failure to maintain status, provided the aggregate period of such violations since the last lawful admission does not exceed 180 days. The count is of **days, not incidents**: three short periods totaling 120 days satisfy the numerical condition, while a single seven-month period does not. Periods of different kinds of violation are added together. How overlapping days are counted should be determined by immigration counsel from current USCIS policy guidance. Meeting the numerical test is a condition of relief, not the whole of it, and the relief does not cure other grounds of inadmissibility.

When the questions surface

These matters can arise on an application to extend or change status, on adjustment, at a port of entry, in removal proceedings and on naturalization. An applicant for naturalization must establish good moral character throughout the statutory period, and false testimony given under oath to obtain an immigration benefit is an independent bar. INA § 101(f)(6), 8 U.S.C. § 1101(f)(6). The naturalization application asks about past conduct, including whether the applicant has ever committed certain offenses or failed to file tax returns. Unresolved banking and tax questions tend to be examined at a time not of the client's choosing, which is the argument for resolving them while records still exist.

Legitimate differences and real discrepancies

A client's records will rarely say the same thing in every forum, and they should not be forced to. The objective is **factual accuracy in each record, not a single uniform narrative across all of them.** Records prepared in different years, for different purposes, about different entities and on different accounting measures can differ perfectly legitimately.

Difference	Often legitimate because	Becomes a real discrepancy if
Income figure in a petition differs from a tax return	One is gross receipts, the other net profit; different years; different entities; currency conversion	The same measure for the same period and entity was stated differently, and one statement is wrong
Bank told the business is "in the United States"; tax return shows foreign income	The customer base is foreign while the owner lives in the United States; loose language	The client in fact performed the work abroad, or in the United States, and one account is false
Company described as "established years ago"	The commercial activity began earlier and continued through a new entity	The entity itself is claimed to have existed before its formation date
Different ownership descriptions	Joint ownership, beneficial interest and signature authority described in different terms	A person with an interest was omitted where the question required disclosure

The correct exercise is to preserve the original records as they are; identify which differences are differences of measurement and which are real discrepancies; establish the actual explanation for each; and where a record is wrong, correct it through the appropriate procedure rather than by restating it elsewhere. Chapter 16 explains why this matters for any later assessment of intent.

Principal authorities. INA §§ 101(f)(6), 212(a)(6)(C)(i), 245(k); 8 U.S.C. §§ 1101(f)(6), 1182(a)(6)(C)(i), 1255(k); 8 C.F.R. §§ 204.5(h), 214.2(f), 214.2(o); USCIS Policy Manual.

Chapter 16. Misstatements, culpability and potential criminal exposure

An error does not automatically establish a crime, but neither the label 'mistake' nor the absence of unpaid tax resolves culpability. Each provision has its own elements, burden of proof and defenses.

This chapter distinguishes those standards without predicting a civil or criminal outcome from incomplete facts.

The standards differ by regime

Sanctions. Civil liability is strict: no knowledge or intent is required, although culpability affects the penalty. Criminal liability requires willfulness.

Tax. Civil penalties range from the accuracy-related penalty for negligence or substantial understatement, I.R.C. § 6662, to the civil fraud penalty, I.R.C. § 6663, which requires clear and convincing evidence of fraud. Criminal tax offenses require willfulness, which the Supreme Court has defined as the voluntary, intentional violation of a known legal duty. *Cheek v. United States*, 498 U.S. 192 (1991). A good-faith misunderstanding of the law, even an unreasonable one, negates criminal willfulness under *Cheek*, although it may not avoid civil penalties.

FBAR. Non-willful violations carry a limited civil penalty with a reasonable-cause defense. Civil willfulness has generally been held to include recklessness. Criminal willfulness requires more.

Reasonable cause is a separate concept, available as a defense to many civil penalties. It generally requires ordinary business care and prudence, which may include good-faith reliance on a competent adviser who was given complete information.

The categories should not be collapsed. A negligent failure to file a form is not willful. A willful failure is not necessarily fraud. And conduct that is strictly liable under sanctions law may carry no culpability at all.

How willfulness is inferred

Willfulness is rarely proved by confession. It is ordinarily inferred from circumstances: concealment, false statements, destruction of records, a pattern of behavior, prior warnings, and inconsistent accounts of the same facts given to different audiences. Where a person tells a bank one story, a tax authority another and an immigration agency a third, and knows that at least one is false, the difference itself can become evidence.

The weight of this should be understood in both directions. **Inconsistency between records does not by itself establish intent.** Innocent explanations are commonplace: separate advisers, imprecise questions, translation, different years, different entities, and figures measuring different things. What contributes to evidence of intent is a materially false account known to be false when given. The practical conclusion is to identify and explain genuine differences, to correct real errors transparently, and above all **not to manufacture a consistent account after the event**. Rewriting records so that they agree is precisely the conduct from which intent is most readily inferred.

Prior warnings, advisers and translation

Prior advice, warnings, preparer questions, language difficulties and subsequent conduct may bear on knowledge or reasonableness. Professional reliance requires attention to the adviser's competence, the information supplied and the particular duty at issue; delegating a known filing deadline is not automatically reasonable cause. A correction after a bank's question may be entirely appropriate and does not itself establish prior willfulness. Record when the error was discovered, what was understood and why the selected correction is accurate.

The principal criminal statutes

The following statutes are the ones most often mentioned in this context. A reporting omission or an inconsistent answer does not by itself establish any of them. Each has elements that must be proved beyond a reasonable doubt.

Statute	What must be shown	Important limits
18 U.S.C. § 1001 (false statements)	A knowing and willful materially false statement or concealment in a matter within the jurisdiction of the federal government	Applies to matters within federal jurisdiction; a statement made only to a private bank is not ordinarily covered, although a false statement in a federal filing or certification is
18 U.S.C. § 1014 (false statements to banks)	A knowingly false statement made to influence a federally insured institution's action on specified matters such as loans and applications	*Thompson v. United States* (2025): the statute reaches false statements, not statements that are merely misleading but literally true
18 U.S.C. § 1344 (bank fraud)	A scheme to defraud a financial institution, or to obtain its property by false pretenses	Distinct statutory clauses; § 1344(2) does not require intent to defraud the bank itself (Loughrin)
18 U.S.C. §§ 1956–1957 (money laundering)	Financial transactions involving proceeds of specified unlawful activity, with knowledge and the required purpose, or monetary transactions over $10,000 in criminally derived property	Requires proceeds of a listed crime; unreported income is not, by itself, laundered money
18 U.S.C. § 1519 (destruction or alteration of records)	Knowingly altering, destroying or falsifying a record with intent to obstruct a federal investigation or matter	Can apply where no investigation has yet begun if one is contemplated
31 U.S.C. § 5322 (willful BSA violations)	Willful violation of Bank Secrecy Act requirements, including FBAR	Requires willfulness
31 U.S.C. § 5324 (structuring)	Structuring transactions for the purpose of evading reporting	Knowledge that structuring is unlawful is not required; the evasive purpose is
I.R.C. §§ 7201, 7203, 7206(1) (tax crimes)	Evasion; willful failure to file or pay; willfully making a false return	Require *Cheek* willfulness
50 U.S.C. § 1705(c) (sanctions)	Willful violation of sanctions regulations	Civil liability is strict; criminal liability is not

Thompson v. United States, 604 U.S. ___ (2025), deserves particular mention because it is often misunderstood in the opposite direction. The Court held that § 1014 does not criminalize statements that are misleading but not false. That does not make misleading statements to a bank advisable: they can still support a fraud theory under other statutes, lead to account closure, and bear on intent. It does illustrate why each statute must be analyzed on its own terms.

Preservation and obstruction

The most serious avoidable exposure in this field is created after the fact. Deleting emails, altering invoices, unpublishing web pages or backdating documents in order to make records consistent can convert a civil reporting issue into potential obstruction, and can supply exactly the evidence of intent that the original facts lacked. Section 1519 does not require that an investigation be pending. The instruction to preserve records is therefore not merely prudent; it is protective.

Principal authorities. 18 U.S.C. §§ 1001, 1014, 1344, 1519, 1956, 1957; 31 U.S.C. §§ 5322, 5324; 50 U.S.C. § 1705; I.R.C. §§ 6662, 6663, 6664(c), 7201, 7203, 7206; *Cheek v. United States*, 498 U.S. 192 (1991); *Thompson v. United States*, 604 U.S. ___ (2025).

IV. RESPONDING TO THE BANK

This Part sets out a disciplined response: immediate triage, an internal factual review conducted with attention to privilege, the reconstruction of wealth and the money trail, and the preparation of an accurate and proportionate submission. The governing principle is enough review to support a truthful response, not a completed audit of every historical question before anything can be said.

Chapter 17. Immediate response and triage

Authenticate, record, clarify

The first steps are procedural and should be taken the day a request arrives. Verify the request through a channel the client already knows to be the bank's. Record the date and form of receipt, the sender, the accounts and persons concerned, the documents requested and the deadline. Where the request came by telephone, ask for written confirmation. Where it is unclear, ask in writing what the bank requires to complete its review: which accounts, which periods, which transactions, and in what form.

Retrieve the history before answering

Before any substantive answer is drafted, collect everything already in the bank's hands: the account-opening documents and questionnaires, any beneficial-ownership certification, earlier requests and answers, documents uploaded by the client or by an accountant, notes of telephone conversations, and any written account of what the bank has said. Clients frequently do not know what an adviser or family member previously sent. Counsel cannot advise on what should follow without knowing what the bank already holds, and a new document may be read against an old one in ways the client does not expect.

Where the bank has referred to figures the client does not recognize, such as a revenue figure that matches none of the client's own numbers, or a net-worth range, the source of each figure should be identified before the client responds to it.

Identify affected accounts and payments

List every account, entity and person connected with the review, including accounts at other institutions that appear in the transaction history. Identify pending or recurring payments that may be affected by a restriction. Establish whether any transfer has been blocked, rejected, returned or delayed, and at which institution.

Identify urgent legal obligations

Separate the bank's deadline, which has commercial consequences, from legal deadlines, which do not move by agreement: income tax return and extension dates, the FBAR due date and its automatic extension, blocked-property reports, information returns, responses to any agency notice, and claim deadlines in any seizure. A bank extension does not extend any of them, and it does not suspend the rules that determine eligibility for voluntary disclosure. Appendix I contains a deadline reference.

Screen for conflicts early

Where more than one person is involved, such as spouses, business partners, parents and adult children, their interests may diverge. One may have signed documents the other did not; one may have held a different visa; one may have made statements the other did not know about. A lawyer who represents more than one client must assess whether a concurrent conflict exists and whether it can be managed with informed written consent. New York Rules of Professional Conduct, Rule 1.7. Counsel should raise the question at the outset and should not proceed with expanded joint work until it is resolved. Each client should receive advice directly.

Extensions and interim responses

Where the review cannot be completed by the bank's deadline, a short and realistic extension request is usually appropriate. The request should state accurately what is outstanding, why, and when it will be provided, and should propose a specific interim step. It should give only true reasons: a weekend, a foreign firm's delay, or a technical obstacle should be mentioned only if verified and relevant. An open-ended request is less likely to be granted and less useful if it is.

The request itself creates no extra time unless the bank grants it. Work must begin immediately. If an extension is refused or unconfirmed, the original deadline governs, and the client must choose promptly between an accurate, authorized limited response and a clear explanation of the remaining obstacle.

Neither silence nor a document dump

Two instinctive responses should be avoided. **Silence** leaves the bank with unexplained activity and may be recorded as unresolved due diligence; "going dark" is an informal description rather than a regulatory classification, and the inference it invites is possible rather than inevitable, but a prompt and truthful communication about what is outstanding distinguishes a documented delay from disengagement. An **unreviewed document dump**, sending everything in the hope that volume will satisfy the bank, is equally risky: it transfers the work of interpretation to the bank, may disclose information that has not been analyzed, and may contain inconsistencies no one has explained.

Available responses include a complete submission, a truthful partial response, a clarification or extension request, and in appropriate circumstances declining a private request while accepting account consequences. Counsel should explain the alternatives and document the decision. None permits a misleading account, destruction of evidence, evasion of legal process or neglect of an independent filing duty.

Principal authorities. New York Rules of Professional Conduct, Rules 1.4, 1.6, 1.7; 31 C.F.R. §§ 501.603, 1010.306(c).

Chapter 18. Internal review, privilege and professional coordination

The chronology

The core tool of any internal review is a dated chronology. It should record, for each person and entity:

- citizenship, immigration status, and physical location over time, with travel records;
- the formation, ownership and management of each entity;
- each account: institution, country, owner, signatories, beneficial interests, opening and closing dates, and maximum balances by year;

- the principal transactions, with sources and destinations;
- each tax return, information return and FBAR, with who prepared it and when it was filed;
- each statement made to a bank, a tax authority or an immigration agency about the business, its income or its ownership;
- each request from any institution, and the response.

Mark each chronology entry as documented, reported or unresolved and identify its source. A dated estimate may be useful where exact information is unavailable, but it must be labeled and its basis retained. Never fill a gap with an invented fact. Appendix D provides worksheets.

Ownership and authority

For each account, the review should establish separately who owns the funds, who holds legal title, who can sign, who has informal access, and whether anyone holds a beneficial interest not recorded on the account documents. These distinctions affect the bank's view of who the customer is, whether ownership representations were complete, whether any person has an FBAR obligation through signature authority, and whose conduct is relevant to any sanctions analysis. Appendix C provides an inventory.

Spouses and family members

Where spouses are involved, the review should establish each spouse's position independently: status and location, ownership and authority over each account, the returns and reports each filed, the statements each made, and what each knew. Their interests may diverge. One spouse may have signed documents or made statements that the other did not know about; one may face exposure that the other does not; one may wish to use a correction route that the other does not. A joint return creates joint and several liability, and a decision to file jointly for a corrected year has consequences for both. Innocent spouse relief under I.R.C. § 6015 may be relevant in some cases and depends on the facts.

Counsel who represents both spouses must consider at the outset whether the representation is permissible and, if so, obtain informed written consent that explains how confidential information will be treated between them and what will happen if their interests diverge. Where the conflict is not consentable, or where one spouse's position requires advice the other should not hear, separate counsel is necessary. Delivering a single memorandum to both spouses does not resolve the question.

The engagement should identify every client, including whether an entity is separately represented, and the agreed treatment of material information. Payment or control of a shared mailbox does not confer unilateral authority. Material secrets, disputed ownership, blame or an indemnity demand can make joint work untenable. Consent is effective only for a consentable conflict and must be informed and confirmed in writing. If adversity develops, reassess confidentiality and former-client duties before assuming the firm can continue for either person.

Records from former advisers and institutions

Clients rarely hold complete records. Tax transcripts can be obtained from the IRS with the client's authorization. Former accountants can provide copies of returns and workpapers. Banks can provide statements for closed accounts within their retention periods. Payment processors and platforms can provide settlement reports. Foreign professionals can verify foreign filings. The review should begin these requests early, because they take time.

Original documents, summaries and recollections

Compare every summary with the original. A translated statement, a relationship manager's note, an accountant's summary, or a client's recollection may each differ from the underlying document. Preserve the original alongside any summary, record who prepared the summary, and state exchange-rate and measurement assumptions expressly.

Attorney-client privilege and work product

Communications between a client and a lawyer made in confidence for the purpose of obtaining legal advice are generally privileged. Materials prepared by or for counsel in anticipation of litigation may be protected as work product. These protections are important, and the internal review should be structured to preserve them where they apply.

Their limits are equally important:

- **Underlying facts and pre-existing documents are not privileged** merely because they are given to a lawyer. A bank statement does not become privileged by being sent to counsel.
- **Disclosure to third parties generally waives privilege.** A letter sent to a bank is an external communication. It is not protected by an attorney's signature or a privilege label. Disclosing privileged analysis to a bank risks waiving privilege over the subject matter.
- **Tax return preparation is generally not legal advice.** Information provided to prepare a return, and the return itself, are not privileged.
- **The federally authorized tax practitioner privilege** under I.R.C. § 7525 is narrow: it applies only in noncriminal tax matters before the IRS and in federal noncriminal tax proceedings, and it does not apply to certain written communications promoting tax shelters.

The Kovel arrangement

Under *United States v. Kovel*, 296 F.2d 918 (2d Cir. 1961), privilege can extend to communications with an accountant or other expert whom a lawyer retains to help the lawyer understand the client's information in order to provide legal advice. The doctrine is valuable in reviews that combine legal, tax and accounting questions, and it is well established in the Second Circuit.

It is a doctrine with conditions, not a protective label. The accountant must be assisting the lawyer in rendering legal advice, not providing independent accounting services. The engagement should be made by counsel, in writing, describing that role. Work done for return preparation, or advice the accountant gives on their own account, is not protected. An accountant who has previously prepared the client's returns may be a fact witness about that work, and protection for a new engagement may be harder to establish; many practitioners therefore retain a separate accountant under *Kovel*. Documents the accountant creates for filing or for disclosure to third parties are not protected.

Foreign advisers

Foreign lawyers and accountants may be needed to verify foreign filings, obtain foreign records and advise on foreign law. Their communications may be subject to different privilege rules. Engagement through United States counsel, with clear instructions about purpose and confidentiality, helps; it does not guarantee protection in every forum. Foreign verification corroborates specified foreign facts; it does not transfer the bank's compliance duties or establish compliance with United States law.

Separating internal analysis from external material

The review produces two kinds of material. Internal analysis identifies risks, weighs explanations and recommends courses of action. External material, such as a cover letter to the bank, is prepared for disclosure and must be accurate on the assumption that it may be read by others. The two should be kept separate from the start. Internal memoranda should not be forwarded, quoted or summarized to a bank, a foreign professional or any other third party without first considering privilege and authorization.

Principal authorities. I.R.C. § 7525; *United States v. Kovel*, 296 F.2d 918 (2d Cir. 1961); *Upjohn Co. v. United States*, 449 U.S. 383 (1981); Fed. R. Evid. 502; Fed. R. Civ. P. 26(b)(3); New York Rules of Professional Conduct, Rules 1.6, 1.7.

Chapter 19. Reconstructing wealth and tracing funds

This chapter explains how to answer the two questions that give clients the most difficulty: how accumulated wealth came about, and where particular funds came from. The examples are composites.

Two different exercises

A **source-of-wealth reconstruction** is a narrative over time. It begins with the client's starting position, adds income and gains, deducts living costs, taxes and losses, and arrives at the present position. Its supporting documents are cumulative: employment records, business results, sale agreements, inheritance and gift records, investment statements.

A **source-of-funds trace** is a transaction path. It follows a particular balance or transfer backwards through each account and intermediary to its origin. Its supporting documents are transactional: statements, settlement reports, payment confirmations and conversion records.

The two exercises answer different questions and should be presented separately, although they must be consistent with each other.

Principles of reconciliation

Whatever the source, a reconciliation should:

- start from an opening balance and end at a closing balance, with every movement accounted for;
- connect receipts to settlements, settlements to receiving accounts, conversions to the resulting currency, and onward transfers to the destination;
- account for fees, refunds, chargebacks, taxes, business expenses and personal spending;
- identify retained earnings and prior savings as distinct sources;
- **not count transfers between the client's own accounts as new income**, which is the most common error in amateur reconciliations;
- state exchange rates and their source;
- identify each assumption and each gap.

Worked example: an online business

A composite client sells digital courses through two platforms and a payment processor. Customers pay small amounts by card. The processor settles net proceeds weekly into the business's account at a foreign bank. Every few months, the client transfers accumulated proceeds to a personal account in another country, converts them to dollars, and transfers them to a United States account.

Step	Record	What it supports
Customer purchases	Platform sales report	Number, dates and amounts of individual sales; refunds
Processor settlement	Processor settlement statement	Batching of sales into weekly net payments; fees deducted
Receipt at foreign business account	Business account statement	Credits matching settlements
Business ledger	Statutory income ledger	Each receipt recorded and reconciled to the annual declaration
Transfer to personal account abroad	Both account statements	Identity of holders and transfers; entity-to-owner transfers also require distribution, loan or other legal basis
Currency conversion	Conversion confirmation	Rate and resulting dollar amount
Transfer to United States account	Wire confirmation and statement	Arrival of the traced funds

When the steps are laid side by side, a small number of large transfers into the United States account is explained by thousands of small sales upstream. Without the first three steps, the United States bank sees only the last three.

Worked example: real-estate proceeds

A client sells an apartment abroad and transfers the proceeds. The reconstruction requires the purchase document and the source of the original purchase price, the sale agreement, evidence of payment by the buyer, any mortgage repaid, taxes and fees, the account that received the proceeds, and the transfers onward. If the apartment was acquired by inheritance or gift, the documents evidencing that acquisition complete the source-of-wealth narrative. The client should also consider whether the sale produced United States tax consequences and whether the foreign account that received the proceeds was reportable.

Worked example: gifts and inheritances

For a substantial gift, retain evidence of the donor, the gift's terms and intent, the transfer, and the donor's source where relevant to the bank's inquiry. Inheritance evidence includes the estate's authority and distribution records. Assess Form 3520 and any other applicable reporting by recipient and year. The required corroboration depends on the facts; a gift letter alone does not establish the donor's source or guarantee bank acceptance.

Worked example: loans

A shareholder loan, family loan or bank loan is a source of funds but not of wealth: it must be repaid. The documents are the loan agreement, evidence of disbursement and evidence of repayment or of the continuing liability. Informal family loans without documentation invite questions; a written acknowledgment prepared now should state accurately that it records an earlier arrangement and should not be backdated.

Worked example: investments and digital assets

Investment gains are traced through brokerage statements showing purchase, sale and transfer. Digital-asset liquidations require exchange account records showing the acquisition of the assets, their sale, and the withdrawal to a bank, and, where assets were acquired long ago or moved between wallets, a record of those movements. Banks may ask about the original source of funds used to acquire the assets. United States tax reporting of any gain should be checked at the same time.

Accumulated wealth over time

Where a bank has recorded a substantial net-worth range, a single year's income will not explain it. A simple year-by-year schedule is often the clearest presentation: for each year, income by source, taxes paid, estimated living costs, and the resulting change in net assets, with the principal assets at the end of the period listed and supported. The schedule should state its assumptions and should not present estimates as exact figures. Where earlier years cannot be documented in detail, say so and supply what can be supplied: tax filings, business registration records, property records, and third-party evidence of the business's existence and scale.

A cash reconciliation and a net-worth reconciliation are different schedules. Net worth must include assets and liabilities, acquisition costs, valuation changes and debt balances. Borrowing raises cash and debt together; principal repayment reduces both and is not an income-tax expense merely because it is a cash outflow. Purchases of assets change the composition of wealth without necessarily reducing total net worth. Distinguish these movements from living costs and realized income, and explain the valuation date and method.

What not to do

Do not prepare new documents that purport to be old ones. Do not present an estimate as a record. Do not round figures to make them match. Do not omit an account because its history is inconvenient; the bank may already know of it. And do not combine gross and net figures, or figures for different years, without saying so.

Principal authorities. FFIEC BSA/AML Examination Manual, Customer Due Diligence; I.R.C. §§ 6039F, 1001; 31 C.F.R. § 1010.350.

Chapter 20. Preparing and correcting the bank submission

The components

A well-prepared submission may include some or all of the following:

- **A cover letter** that explains what is enclosed, how the documents relate to the bank's questions and to one another, and any material discrepancies.
- **A chronology** of the relevant business and personal history.
- **A reconciliation** connecting sources to the account.
- **A document index** listing each enclosure, its date, its source and the proposition it supports.
- **Translations** of foreign-language documents, identified as such, with the translator's details.
- **Professional verification** of foreign filings, where the bank's concern relates to their authenticity or status.
- **A scoped legal opinion**, occasionally, where a specific legal question is central and counsel has completed the necessary analysis.

Not every submission needs every component. Proportion matters: a routine periodic review may need a short letter and two documents; a review involving cross-border transfers and changing explanations may need all of them.

What the cover letter should do

The cover letter should state, accurately and without argument, what each document is and what it is not; how the figures relate to one another and to anything said before; and where an earlier answer was incomplete or wrong, what the correct position is and why the earlier answer differed. It should distinguish verified facts from the client's explanations. It should identify any document that is unavailable and explain why.

Do not present an unverified explanation as an established fact. Where appropriate, identify an account expressly as the client's report, explain the available corroboration and disclose material unresolved points. Do not use attribution to repeat an explanation known to be false or misleading.

Commit to documents or dates only with authority and a realistic basis; decide with the client whether an unresolved material issue calls for clarification, partial production, more time or nonproduction.

A short transmittal confirming only that a document has been screened is rarely sufficient where the bank's file already contains inconsistencies. Without explanation, the bank is entitled to treat the submission as the client's final answer, to reconcile the contradictions itself, and to decide on that basis.

Unsupported legal conclusions

A client's letter should not contain unsupported legal conclusions: that all transactions complied with sanctions, that all taxes were paid, that no reporting obligation applied. Such statements are conclusions of law that the client may not be in a position to make. A statement of verified facts is safer and more persuasive.

Where a legal conclusion is central, a carefully scoped opinion from counsel may be appropriate. It should identify the facts relied on, the question addressed, the analysis and its limits.

A counsel letter to the bank is not privileged

Any letter or opinion sent to a bank is an external communication. It is not privileged, it may become part of the bank's file, and it may become supporting documentation for a report and be produced to authorities. Disclosing privileged analysis in such a letter risks waiving privilege over the subject matter. A counsel letter should therefore be drafted from the outset as a non-privileged document that contains verified facts and narrow analysis, and nothing that counsel would not be content to see read by an agency.

Partial production

A staged response is often the right course. A narrow, verified document can be produced while other records are reviewed, provided the submission is expressly identified as partial, describes what is enclosed and what is not, and does not imply that the request has been answered in full.

Suppose the bank requests a tax declaration and foreign statements. The declaration and material prior statements have been reviewed, but the statements already in counsel's possession require historical sanctions screening. A partial response may accurately say that the statements are under review and propose a realistic completion date. It should not say that they are being obtained or assembled if that is untrue. If the proposed date changes, explain the actual status promptly; a missed target does not by itself establish deliberate delay.

Screening before production, without unjustified delay

Where a sanctions question is plausible, the institutions and counterparties that a document will reveal should be identified and screened for the relevant dates before the document is produced. The purpose is to ensure that the production decision and its description are informed, and that any disclosure or reporting question is identified before rather than after the bank learns of it. The purpose is not to conceal. Where no plausible sanctions question arises, screening should not become a reason to delay a straightforward response.

Redactions and unavailable records

Consider limited redactions only where lawful, explained and consistent with the bank's requirements. Obtain agreement where feasible and ensure the remaining record is verifiable and nonmisleading. Do not conceal material counterparties, accounts or transactions. If records are unavailable, describe the gap and actual efforts to obtain them and offer relevant alternative evidence. Maintain complete originals internally where available.

Translation and foreign verification

Confirm whether the bank accepts the original language or requires a translation and, if so, the required form. Identify the translator and preserve the original. Foreign verification should state the records examined, relevant period, methods, and limitations; it may corroborate filing, amendment history or payment only to the extent actually checked. A professional letter does not transfer the bank's regulatory responsibilities or automatically establish U.S. compliance. Formal reliance under §§ 1010.230(j) and 1020.220(a)(6) concerns qualifying financial institutions under specified conditions, not an ordinary attorney or CPA letter.

Correcting an earlier answer

Where an earlier answer was wrong, say so directly. State the correct position, explain why the earlier answer differed, and support the correction with documents. Do not restate the history as though the earlier answer had not been given. The bank already has it.

Authorization and record-keeping

Every submission should be authorized in writing by the client or clients whose information and interests are involved. Keep a complete copy of exactly what was sent, when, by whom and through which channel. Appendix J contains annotated examples of an extension request, a clarification request, a partial production letter and a factual correction.

Principal authorities. 31 C.F.R. § 1020.320(d); FinCEN Guidance FIN-2007-G003; New York Rules of Professional Conduct, Rules 1.2, 1.6, 4.1, 8.4(c).

V. CORRECTION AND VOLUNTARY DISCLOSURE

Correction, civil penalty relief and protection against prosecution are separate objectives. The routes discussed here have different eligibility rules and effects. A disclosure alone does not grant immunity, and one agency's relief does not automatically resolve another's jurisdiction. Specific agreements or coordinated resolutions must be assessed by their actual terms. Timing can matter before the client receives notice.

Chapter 21. Diagnosing the problem and selecting a route

Diagnosis before remedy

A correction chosen before the problem is understood is often the wrong one. The diagnosis should answer, for each potential issue:

- **What obligation existed?** Which form, which regime, which threshold, which year.
- **Who was subject to it?** Each spouse, each entity, separately.
- **What was actually filed, and what was missing or inaccurate?**
- **What did the person understand at the time?** The answer bears on whether conduct was non-willful, willful or somewhere between, and must be established honestly, not assumed in the client's favor.
- **Has there been government contact?** An examination, a notice, a summons, a blocking or rejection report by a third party, or a request to a bank.
- Is any conduct continuing? Stop prohibited conduct promptly and address historical obligations in parallel; a lawful exit may itself require authorization.
- **What deadlines are approaching?** A current-year filing can often be made correctly even while earlier years are assessed.

The range of remedies

Remedy	Objective	Typical use
Amended return or corrected filing	Correct the record	Errors without significant penalty exposure or willfulness concerns
Late filing with reasonable-cause statement	Correct the record and seek penalty relief	Non-willful failures with a genuine reasonable-cause basis
Streamlined Filing Compliance Procedures	Correct returns and FBARs with a defined penalty outcome	Non-willful offshore noncompliance by eligible individuals
IRS Voluntary Disclosure Practice	Address potential criminal exposure and resolve civil liability	Willful or potentially willful noncompliance, legal-source income
OFAC voluntary self-disclosure	Obtain mitigation for apparent sanctions violations	Apparent violations not yet discovered by the government
DOJ voluntary self-disclosure	Obtain declination or reduced resolution for business organizations	Potential criminal violations by companies
Negotiated criminal resolution	Resolve an existing investigation	Where an investigation has begun

The objectives differ: correcting the record, reducing civil penalties, and addressing the risk of prosecution are distinct goals, and a route that achieves one may not achieve the others.

Unplanned amended filings

Filing amended returns and late FBARs without using a formal procedure, sometimes called a quiet disclosure, is not improper in itself, and it is the right course for many simple errors. It does not, however, obtain the protections of a formal procedure, and where willfulness may be in issue the IRS has stated that quiet disclosures do not qualify for voluntary disclosure treatment. For non-willful cases, IRS guidance on the Streamlined procedures recognizes that a taxpayer who previously filed amended returns may still participate if otherwise eligible, although penalties already assessed are not abated. The practical point is that corrections should be planned: which years, in which order, under which procedure, with what supporting statement.

The order of operations

Where several regimes are involved, sequencing matters. Common principles include:

– **Stop continuing conduct first**, particularly continuing dealings that may involve blocked property.

– **Assess willfulness before choosing a tax route.** The Streamlined procedures require a non-willfulness certification; a false certification creates its own exposure. Where willfulness is realistically in issue, the Voluntary Disclosure Practice should be considered first.

– Assess the IRS legal-source requirement where criminal tax disclosure is under consideration. A prohibited payment channel does not automatically establish that all underlying receipts are illegal-source income. Analyze the earning activity, the precise sanctions conduct and the applicable IRS standard before making representations about eligibility.

– **Assess timing rules for each regime.** A development that makes one route unavailable may be imminent. Chapters 22 and 23 identify the triggers.

– **Coordinate with the bank response.** A disclosure to an agency and a submission to the bank should be consistent. Neither should precede the other without a decision about the sequence.

– **File current obligations correctly and on time.** A current-year return or FBAR should not be delayed because earlier years are being assessed, but it should be prepared with awareness of the earlier position.

Each person separately

Eligibility and strategy must be assessed separately for each spouse and each entity. A benefit available to a company does not automatically protect its owners, and a route suitable for one spouse may not suit the other.

Principal authorities. IRS Streamlined Filing Compliance Procedures; Internal Revenue Manual 9.5.11.9; 31 C.F.R. Part 501, App. A; Department of Justice Corporate Enforcement and Voluntary Self-Disclosure Policy.

Chapter 22. Tax and FBAR corrective procedures

The procedures in this chapter are administrative. The IRS may modify or withdraw them, and their current text must be checked before any submission, as the Authority Register notes. Statutory defenses, such as reasonable cause, remain governed by their statutes.

Streamlined Filing Compliance Procedures

The Streamlined procedures allow eligible individual taxpayers whose failure to report foreign income, pay tax and file information returns and FBARs was **non-willful** to become compliant under a defined penalty framework. Non-willful conduct is conduct due to negligence, inadvertence or mistake, or conduct that is the result of a good-faith misunderstanding of the requirements of the law.

Both variants share core requirements: the taxpayer must certify non-willfulness under penalty of perjury, stating specific facts; must have a valid taxpayer identification number; must file three years of returns and six years of FBARs; and must pay the tax and interest due. Neither is available to a taxpayer under IRS civil examination for any year, or under IRS criminal investigation. Tax and interest remain payable; the procedures address penalties.

Streamlined Domestic Offshore Procedures apply to taxpayers who do not meet the non-residency test described below. They require that the taxpayer **previously filed** United States tax returns, where required, for each of the three most recent years for which the due date has passed; the procedure corrects returns by amendment and cannot be used to file missing original returns. The taxpayer pays a miscellaneous offshore penalty of five percent of the highest aggregate year-end balance or value of the foreign financial assets subject to the penalty during the covered period, and certifies on Form 14654.

Streamlined Foreign Offshore Procedures apply to taxpayers who meet a non-residency test. For United States citizens and lawful permanent residents, the test is met if, in any one or more of the three most recent years for which the due date has passed, the individual did not have a United States abode and was physically outside the United States for at least 330 full days. For other individuals, the test is met if, in any one or more of those years, the individual did not meet the substantial presence test. Spouses filing jointly must each meet the test. Original or amended returns may be filed. No miscellaneous offshore penalty applies. Certification is on Form 14653.

The foreign procedure can be relevant to a noncitizen who was not a resident in a relevant year, for example because student days were excluded. Whether it is available requires verification of each spouse's status chronology and of every other condition. Residence in a particular state does not settle the question.

A certification is a sworn statement. A knowingly and willfully false certification of a material fact may create criminal exposure. The IRS may review a submission against information from banks and other sources, and a submission may be selected for examination.

The non-willfulness narrative

The Streamlined certification requires a statement of specific facts explaining the failure. The IRS has made clear that a conclusory statement is inadequate. A persuasive narrative typically addresses the taxpayer's background and education, how the foreign accounts or assets came to be held, how the income arose, who prepared the returns and what the preparer was told, when and how the taxpayer learned of the obligations, and what the taxpayer did upon learning of them. It should address facts that might suggest willfulness, such as prior warnings, a bank's inquiry or the use of structures, rather than omitting them.

The narrative must be true. It is signed under penalty of perjury, and the IRS may compare it with information from banks, FATCA reports, the BSA database and other sources. A narrative that is inconsistent with what the taxpayer told a bank, or with an immigration filing, invites the questions this Guide has tried to anticipate. The narrative should therefore be prepared after, not before, the chronology and discrepancy review described in Chapter 18.

IRS Voluntary Disclosure Practice

The Voluntary Disclosure Practice, described in Internal Revenue Manual 9.5.11.9, is the route for taxpayers whose noncompliance may have been **willful**. It confers no immunity, but IRS Criminal Investigation generally will not recommend prosecution of a taxpayer who makes a timely, accurate and complete voluntary disclosure, cooperates fully and pays what is due.

Timeliness is central. A disclosure is timely only if it is received before the IRS has begun a civil examination or criminal investigation of the taxpayer, or has notified the taxpayer of its intent to do so; before the IRS has received information from a third party, such as an informant, another agency or a John Doe summons, alerting it to the specific taxpayer's noncompliance; before the IRS has initiated a civil examination or criminal investigation directly related to the taxpayer's liability; and before the IRS has acquired information directly related to the taxpayer's noncompliance from a criminal enforcement action, such as a search warrant or grand jury subpoena. **Eligibility can therefore be lost before the taxpayer receives any notice.**

The practice is limited to income from **legal sources**. It proceeds in stages. A preclearance request on Form 14457, Part I, is submitted to IRS Criminal Investigation and identifies the taxpayer. It is not anonymous advice, acceptance or immunity. If preclearance is granted, the taxpayer submits Part II with a detailed narrative, and the case is then assigned for civil resolution.

The civil framework ordinarily covers a six-year disclosure period, which may be expanded. It generally applies the civil fraud penalty under I.R.C. § 6663 to the year with the highest tax liability, or the fraudulent failure-to-file penalty under I.R.C. § 6651(f), and a willful FBAR penalty ordinarily computed with reference to a single year, subject to the examiner's authority and the facts. The framework is not an unconditional ceiling.

A decision to use the practice should be made only after counsel has assessed the facts, the timeliness rules and the legal-source requirement, and with the client's informed authorization.

As of this edition, the IRS VDP webpage also discusses proposed revisions announced December 22, 2025. A proposal is not an operative penalty framework merely because it appears alongside current guidance. Verify final adoption, effective date and transition rules before relying on different terms. Preclearance, preliminary acceptance, civil resolution and an enforceable agreement are distinct stages; none should be described as automatic immunity.

Late FBARs and reasonable cause

The IRS's current general FBAR guidance directs taxpayers not contacted about a late FBAR and not under civil or criminal investigation to file promptly, explain the delay, and follow the instructions of any applicable compliance option. It warns that late filing may attract penalties; the Guide does not promise the penalty-free treatment described in older standalone procedure pages. Evaluate unreported income, culpability and the appropriate route together. Filing an accurate late report and asserting statutory reasonable cause are distinct steps; neither should be replaced by indefinite delay.

The durable basis for relief is the statute. No non-willful civil penalty may be imposed if the violation was due to reasonable cause and the account balance is properly reported. 31 U.S.C. § 5321(a)(5)(B)(ii). The Internal Revenue Manual directs examiners not to assert a penalty in those circumstances. A late filer should establish non-willfulness, reasonable cause, and proper reporting of the accounts. Prior IRS contact or an examination affects strategy but does not itself bar the statutory defense. Where willfulness is possible, the Voluntary Disclosure Practice should be assessed first.

Delinquent international information returns

The IRS directs eligible taxpayers with delinquent international information returns to normal filing procedures and warns that penalties may be assessed. Its current guidance generally calls for attachment to amended income tax returns, with Forms 3520 and 3520-A filed under their own instructions. A reasonable-cause statement may accompany a return; for most forms it may not be considered before automated assessment, requiring a later response. The published instructions specifically provide for pre-assessment consideration of attached reasonable-cause statements for Forms 3520 and 3520-A and prescribe a notation on the form. Unreported income requires an integrated correction plan; it does not automatically make every taxpayer eligible for Streamlined or VDP.

Route	Conduct	Scope	Civil outcome	Criminal effect	Disqualifying events
Streamlined Domestic	Non-willful	3 returns; 6 FBARs	5% offshore penalty; other covered penalties waived	None conferred	Examination or CI investigation; failure of required prior-return condition or other eligibility rules

Route	Conduct	Scope	Civil outcome	Criminal effect	Disqualifying events
Streamlined Foreign	Non-willful	3 returns; 6 FBARs	Covered penalties relieved if conditions met; tax and interest remain due	None conferred	IRS civil exam; CI investigation; fails non-residency test
Voluntary Disclosure Practice	Willful	Generally 6 years	Civil fraud penalty on one year; willful FBAR penalty framework	Potential protection through CI practice; no automatic immunity	Specified examination, investigation, third-party or enforcement information; illegal-source income
Late FBAR with reasonable cause	Non-willful	Delinquent FBARs	No penalty if reasonable cause and proper reporting	None conferred	Willfulness
Delinquent information returns	Information-return failures; assess culpability and applicable defenses	Missing information returns	Penalties may be assessed; reasonable cause considered	None conferred	Exam; investigation; prior IRS contact about the returns

Principal authorities. 31 U.S.C. § 5321(a)(5); I.R.C. §§ 6038, 6038A, 6038D, 6651(f), 6663; Internal Revenue Manual 4.26.16, 9.5.11.9; IRS Forms 14457, 14653, 14654; IRS Streamlined Filing Compliance Procedures; IRS Delinquent International Information Return Submission Procedures.

Chapter 23. Sanctions disclosures and coordinated sequencing

OFAC voluntary self-disclosure

OFAC's Economic Sanctions Enforcement Guidelines treat voluntary self-disclosure as a substantial mitigating factor. 31 C.F.R. Part 501, App. A. A voluntary self-disclosure is a self-initiated notification to OFAC of an apparent violation, made **before or at the same time as** OFAC or another government agency discovers the apparent violation or a substantially similar one. It must be accompanied or followed within a reasonable time by a report of sufficient detail to afford a complete understanding of the circumstances, and the discloser must respond to follow-up inquiries.

Several events prevent qualification. A notification does not qualify if a third party is required to notify OFAC of the apparent violation, or a substantially similar one, because a transaction was blocked or rejected, and does so, regardless of when OFAC receives the third party's report and whether the discloser knew of it. A disclosure also does not qualify if it contains false or misleading information, is materially incomplete, or is made at the direction of a regulator or following discovery by another agency. That is why counsel asks whether any transfer was ever blocked or rejected, and why a prompt decision on disclosure matters.

The effect of disclosure on penalties

For IEEPA non-egregious cases, 31 C.F.R. Part 501, Appendix A, § V.B.2.a caps the voluntarily disclosed base at $188,850 and the non-disclosed schedule base at $377,700 per violation; these are fixed base caps, not simply half or all of an unlimited twice-transaction-value ceiling. Egregious bases use half the applicable statutory maximum with qualifying disclosure and the full maximum without it. The 25–40 percent cooperation reduction generally concerns substantial cooperation without qualifying disclosure; cooperation with disclosure may provide further mitigation but not that automatic percentage. Other adjustments and the applicable inflation levels must be checked. See Part 501, Appendix A, § V.B.

Voluntary self-disclosure does not confer immunity. OFAC may refer a matter for criminal investigation, and the Department of Justice decides whether to prosecute.

Cooperation without qualifying disclosure

Where voluntary self-disclosure status is unavailable, for example because a bank has already reported a rejected transaction, cooperation remains valuable. Substantial cooperation, including providing information beyond what OFAC already holds, can reduce the penalty, and remediation and the absence of prior violations are also weighed. Many cases end with a cautionary letter or a finding of violation without a penalty.

Overdue reports and licensing

A disclosure analysis should be accompanied by a review of reporting and licensing. Any overdue blocked-property report under 31 C.F.R. § 501.603 should be addressed. Any continuing problem, such as an account at a blocked institution, should be resolved under an applicable general license or through a specific license application. A specific license is requested through OFAC's licensing portal, with a description of the transaction, the parties, the property and the reasons for the request. Licensing addresses the future; disclosure addresses the past.

Department of Justice policies

DOJ's March 2026 Corporate Enforcement and Voluntary Self-Disclosure Policy applies across corporate criminal matters, subject to its stated exception for specified antitrust violations. It provides for declination when its disclosure, cooperation, remediation and aggravating-factor conditions are met, with separate treatment for other cases. Disgorgement, forfeiture and victim compensation can remain payable. The policy creates no enforceable entitlement and does not protect culpable individuals automatically. Identify the appropriate DOJ component and any applicable implementing guidance.

A business organization's resolution and an individual's protection are different matters. The policy encompasses several forms of business organization, but its treatment of an organization does not itself resolve the liability of a proprietor, owner, officer or employee. Disclosure to OFAC or another regulator generally does not substitute for disclosure to the appropriate DOJ component; the current policy permits fact-specific discretionary exceptions. Do not assume that notifying one agency secures all disclosure benefits.

Coordination across agencies

A single set of facts may call for decisions involving the bank, the IRS, FinCEN, OFAC and possibly the Department of Justice. Each has its own triggers and its own rules, and relief under one binds no other. A practical coordination plan should:

- stop continuing conduct and address any blocked property first;
- determine whether any sanctions question affects the legal-source requirement for IRS voluntary disclosure;
- assess the timing rules for each route and identify any imminent development that could close one;
- decide the order of disclosures and of the bank submission;
- Ensure accuracy in every submission and explain legitimate differences of period, person, legal definition or measurement rather than forcing identical wording or figures.
- keep parallel timelines, recognizing that a bank extension suspends nothing in any agency process.

Discovery and notice are different events

Prepare a separate chronology for each possible disclosure route: prior bank inquiries, actual filings, rejected or blocked transfers, government communications, and any evidence of agency receipt or discovery. Do not equate a suspected SAR with proof of disqualification, and do not assume that no notice means every route remains open. Investigate promptly without fabricating a deadline or delaying a mandatory report. Some procedures permit an initial notification followed by a complete submission; identify the actual rule before choosing that approach.

The appropriate order is fact-specific. Counsel may coordinate a prompt initial agency disclosure with an accurate bank extension or partial response while a permitted follow-up investigation continues. In another case, a straightforward bank response can proceed while unrelated historical corrections are assessed. The objective is truthful, authorized action on each track, not concealment of inconvenient records or a requirement to complete every historical audit before answering anything.

Track	Governing clock	What a bank extension does	Key risk
Bank review	Bank's deadline, as extended	Extends only this track	Closure or restriction
IRS procedures	Timeliness and eligibility rules	Nothing	Loss of eligibility through third-party information or examination
OFAC	Discovery and third-party reporting rules; blocked-property report deadlines	Nothing	Loss of self-disclosure status; overdue reports

Track	Governing clock	What a bank extension does	Key risk
Tax and FBAR filings	Statutory due dates	Nothing	Additional failures in the current year

Principal authorities. 50 U.S.C. § 1705; 31 C.F.R. §§ 501.603, 501.604, Part 501 App. A; Department of Justice Corporate Enforcement and Voluntary Self-Disclosure Policy (Mar. 2026); National Security Division enforcement guidance.

VI. OUTCOMES AND CONTINUING PROTECTION

This Part addresses what happens after the review: account closure and banking continuity, customer complaints and remedies, the recognition of a change in procedural posture when a government agency becomes involved, and the maintenance of a financial record that will withstand the next review.

Chapter 24. Account closure and banking continuity

Closure is a commercial decision

A bank may have contractual grounds to close an account, subject to applicable law and the actual terms. A complete response gives it a better factual basis but does not guarantee retention. Record what has been established and prepare lawful alternatives for essential payments while seeking review where appropriate.

What happens on closure

Account agreements typically provide for notice, a period during which the customer may withdraw or transfer funds, and delivery of the remaining balance, often by cashier's check mailed to the address of record. Pending payments, direct debits and incoming transfers may be returned. The client should:

– identify essential payments, such as rent, payroll, taxes and loan payments, and arrange alternatives;
– update payers and payees with new account details once a new account is open;
– download statements, tax documents and transaction histories before online access ends;
– request any records that will be needed later, within the bank's retention period;
– confirm in writing where the remaining balance will be sent.

Commercial closure and legal restriction are different

A closure ends the relationship. It does not by itself restrict the client's funds. But where the funds are subject to a legal restriction, such as blocking, a levy or a seizure, the closure does not release them, and they cannot simply be transferred elsewhere. Chapter 11 explains how to tell the difference.

Closure does not end the underlying questions

Closing an account does not necessarily end the bank's review, reporting or cooperation with authorities. It does not erase retained records, withdraw a SAR or resolve historical tax, reporting or sanctions obligations. Account exit and legal remediation require separate decisions.

Consumer reports

Consumers may request their specialty banking reports, including ChexSystems and Early Warning Services reports, and dispute inaccurate or incomplete information under the FCRA. Investigation is generally due within 30 days, subject to statutory extensions and exceptions. Information that is inaccurate, incomplete, unverifiable or obsolete may require correction or deletion; an accurate closure is not removable merely because it is unwelcome. SARs are not consumer reports. Consumer protections also should not be assumed to cover a business entity's report in the same way.

Opening a new account

A new bank will ask its own questions and may ask whether other institutions have closed accounts. Answers must be accurate. A client should not conceal a prior closure or give an explanation that is not true. A short, factual explanation, supported by the same documents prepared for the earlier review, is often the most effective approach. Where the earlier review identified issues that are being corrected, the client should take advice on what to say about them.

Silence at the earlier bank

Where a client abandoned an earlier review without responding, a later explanation can address the silence, although it cannot change when the response was given. Abandoning an inquiry does not establish wrongdoing and does not automatically produce a report. Two unanswered inquiries warrant examination of both histories, but they do not establish a deliberate pattern.

Principal authorities. 15 U.S.C. §§ 1681g, 1681i, 1681j; deposit account agreements; Uniform Commercial Code Article 4.

Chapter 25. Complaints, disputes and customer remedies

Realistic objectives

Clients whose accounts have been restricted or closed sometimes want to challenge the decision. The available remedies are limited, and it is important to be realistic about what they can achieve: clarification of what the bank requires; correction of inaccurate information; access to funds that are not legally restricted; compensation where a legal right has been violated; and occasionally review of a decision that was based on an error, such as mistaken identity.

Internal escalation

The first step is usually a written complaint to the bank, directed to its customer complaints function, identifying the account, the decision, the error alleged and the remedy sought. Keep it factual. A bank is unlikely to reverse a risk-based closure on complaint, but it may correct a factual error or release funds held without a legal basis.

Identifying the right regulator

Different regulators supervise different banks:

Institution	Regulator for complaints
National banks and federal savings associations	Office of the Comptroller of the Currency, Customer Assistance Group
State-chartered banks that are members of the Federal Reserve System	Federal Reserve
State-chartered non-member banks	Federal Deposit Insurance Corporation and the state regulator

Institution	Regulator for complaints
New York-chartered or licensed institutions	New York Department of Financial Services, as well as the federal regulator
Credit unions	National Credit Union Administration or the state regulator
Consumer financial products at large banks	Consumer Financial Protection Bureau, within its jurisdiction

Regulators forward complaints to banks and require responses. They do not generally order a bank to maintain a relationship it has chosen to end.

Consumer report disputes

Where a specialty consumer report contains inaccurate information, a dispute under the Fair Credit Reporting Act is often the most effective remedy available, because the reporting agency must investigate and correct inaccuracies. Chapter 24 describes the process.

Contractual claims

A bank that fails to follow its own account agreement, for example by failing to return a balance, charging improper fees, or dishonoring items without authority, may be liable in contract or under the Uniform Commercial Code. Deposit agreements frequently contain arbitration clauses, class-action waivers and limitations on liability, which should be reviewed before any claim is considered.

Discrimination protections

The Equal Credit Opportunity Act concerns credit and does not generally govern an ordinary deposit relationship. Depending on the facts, other federal, state or local protections may apply. The 2026 OCC/FDIC reputation-risk rule constrains supervisory agencies and does not itself create a general account-retention right against private institutions. Evaluate the actual decision, evidence, charter, contract and applicable statute before alleging discrimination or promising a remedy; absence of a stated reason alone does not establish unlawful discrimination.

What complaints cannot do

A complaint cannot obtain disclosure of a SAR, compel a bank to explain its risk assessment, or require a bank to continue a relationship it may lawfully end. Nor is it a substitute for addressing any underlying legal issue identified in the review.

Principal authorities. 15 U.S.C. §§ 1681i, 1691; 12 U.S.C. § 5493; N.Y. Banking Law; N.Y. Executive Law art. 15; Executive Order 14331 (Aug. 7, 2025).

Chapter 26. When a government agency becomes involved

A bank review does not establish that an agency is investigating. If government contact occurs, identify the authority, form of demand, deadlines and whether participation is voluntary or compulsory. Representation should match the actual proceeding before substantive answers are given.

Recognizing the change

Contact	What it usually means	First response
IRS letter proposing adjustments or opening an examination	Civil examination of one or more years	Note deadlines; engage tax counsel; do not submit Streamlined filings for the examined taxpayer
IRS information document request	Civil examination request for records	Review scope with counsel; respond by the stated date or request more time
IRS summons, or notice of a third-party summons	Compulsory process	Note the petition-to-quash deadline, generally twenty days from notice; engage counsel immediately
Contact from an IRS Criminal Investigation special agent	Possible criminal investigation	Politely decline to be interviewed without counsel; engage criminal tax counsel at once
OFAC administrative subpoena or request for information	Sanctions inquiry	Engage sanctions counsel; preserve documents; do not submit a separate self-disclosure without advice
Grand jury subpoena	Federal criminal investigation	Engage criminal counsel; preserve documents; do not discuss with others
Seizure notice or forfeiture complaint	Civil or criminal forfeiture	Observe claim deadlines strictly; engage counsel
Contact from an agent of another agency	Varies	Obtain the agent's name, agency and contact details; do not answer substantive questions without counsel

Preservation

Once a government inquiry is reasonably anticipated, the obligation to preserve relevant records is at its strongest. Destroying or altering records may constitute obstruction under 18 U.S.C. § 1519 and related statutes. Suspend any routine deletion of emails and messages. Do not "clean up" files.

Interviews and testimony

An individual is not obliged to be interviewed by an agent in most circumstances, and statements made in an interview can be used later. False statements to a federal agent can be prosecuted under 18 U.S.C. § 1001. The Fifth Amendment privilege against self-incrimination may be available in response to compelled testimony, but it generally does not protect the contents of pre-existing voluntarily prepared documents, and records required to be kept by law, such as foreign-account records under the FBAR regulations, have been held by several courts of appeals to fall within the required-records exception. These are questions for counsel, not for the client in the moment.

A private bank request is ordinarily not government compulsion, and invoking the Fifth Amendment does not require the bank to keep an account. In government proceedings, assess the privilege question by question, including any testimonial act of production, required-records doctrine and entitycustodian rules. Civil adverse inferences and an immigration applicant's burden of proof require separate analysis; invocation is not automatically guilt or automatic loss of status. Do not ignore a subpoena or assume every document is protected. Relevant authorities include Fisher v. United States, 425 U.S. 391 (1976), Baxter v. Palmigiano, 425 U.S. 308 (1976), and In re Grand Jury Subpoena Dated February 2, 2012, 741 F.3d 339 (2d Cir. 2013).

Coordinating parallel proceedings

A single set of facts may produce a civil tax examination, a sanctions inquiry, a bank closure and an immigration question at the same time. What is said in one may be used in another. Counsel should coordinate the responses, determine whether any disclosure route remains open, and ensure that every statement is accurate and consistent.

What changes in the disclosure analysis

A route can become unavailable before notice. Streamlined eligibility turns on initiation of an IRS civil examination for any year or an IRS criminal investigation. IRS VDP timing can also turn on specified third-party or enforcement information received by the IRS. OFAC uses its own discovery and required third-party reporting rules. A suspected SAR does not automatically establish any particular disqualifying event. Review actual content and chronology; cooperation may still matter if formal disclosure treatment is unavailable.

What the client should not do

Preserve the notice and verify its authenticity. Identify and meet or lawfully seek extension of deadlines. For a substantive investigative interview or production, obtain appropriate advice before responding; routine administrative steps need not await a full merits review. Do not coordinate false accounts, alter evidence, disobey a restraint or move assets to frustrate collection or enforcement. Ordinary lawful transactions and truthful communications require a fact-specific assessment rather than a blanket prohibition.

Principal authorities. I.R.C. §§ 7602, 7609; 18 U.S.C. §§ 983, 1001, 1519; U.S. Const. amend. V; 31 C.F.R. § 501.602; Internal Revenue Manual 9.5.11.9.

Chapter 27. Ongoing compliance and future bank reviews

A client may face later reviews at the same or another institution. A maintained financial record makes it easier to answer the five questions in Chapter 5 accurately and promptly, without assuming that another review is inevitable.

The standing file

Maintain, and update at least annually:

- **An account inventory** listing every account in every country, with owners, signatories, beneficial interests, opening dates and year-end and maximum balances.
- **An ownership record** for every entity, with formation documents, ownership percentages, managers, tax classification and any elections.

- **Filing confirmations** for every income tax return, FBAR, Form 8938 and information return, with acknowledgment of filing.
- **A source-of-wealth summary**, updated when significant assets are acquired or disposed of, with the supporting documents.
- **A business description** stating what the business does, where, for whom and through which payment channels, with expected volumes.
- **Sanctions review records**, where relevant, showing that banks, processors and significant counterparties were checked, when, and with what result.
- **Correspondence** with every bank about due diligence, including what was sent and when.

Keeping the profile current

Update information required by the account agreement and communicate material changes relevant to the bank's understanding of activity. Explain anticipated unusual transfers where appropriate. An accurate profile may help the bank assess activity, but it does not prevent alerts or guarantee processing.

Coordinating advisers

Accountants, lawyers, immigration counsel and foreign advisers should know what each other has filed or stated on the client's behalf. Many discrepancies arise because separate advisers described the same facts for different purposes without comparing notes. A short annual coordination call is inexpensive insurance.

An annual calendar

Appendix I contains a deadline reference. At a minimum, calendar the income tax return and extension dates, the FBAR due date and automatic extension, any blocked-property annual report, entity information returns, and the renewal or expiry of any license relied upon.

Composite outcomes

The following are fictional teaching scenarios with assumed outcomes, not descriptions of actual clients, past results or expected agency decisions. Account retention, accurate reporting, penalty mitigation and resolution of government exposure are different objectives.

An innocent discrepancy resolved. A client told a bank that her business earned a certain amount; her tax return showed a lower figure. The difference was between gross receipts and net profit. A short cover letter explaining the two measures, with the return and a profit summary, closed the review. The account remained open.

An account closed despite adequate documentation. Assume a client supplies reliable evidence of a lawful foreign business but the bank ends the relationship under its applicable account terms. The client retrieves records, addresses consumer-report errors if any, and makes accurate disclosures required by a new institution. The closure itself proves neither a violation nor that the client will obtain another account.

A reporting omission corrected. Assume a client discovers signature authority over a family company's foreign account, confirms that his own aggregate reportable value exceeded the threshold, and establishes nonwillfulness and reasonable cause. Counsel coordinates accurate late reports and an appropriate bank response under the applicable timing rules. A no-penalty outcome is possible on these assumptions, but nonwillfulness alone is not reasonable cause and does not guarantee that result.

A sanctions issue requiring separate action. Assume records reveal dealings after a foreign bank was blocked. Counsel identifies the actors, dates, restrictions and licenses; checks government discovery and required third-party reports; and determines whether qualifying self-disclosure remains available. Any authorized account exit is separately coordinated with required reports and tax corrections. A cautionary letter is one possible outcome, not a prediction, and the receiving bank need not accept a transfer solely because a license authorizes it.

These examples illustrate decisions and evidence, not promised outcomes. The same bank outcome can coexist with different legal consequences.

Principal authorities. 31 C.F.R. §§ 501.601, 1010.420; I.R.C. § 6001.

CONCLUSION

The threads of this Guide can be drawn together in a small number of propositions, each of which has been developed in the chapters that precede this one.

A bank's request for information is a compliance review, not an accusation. It is also, very often, the first occasion on which a client's cross-border financial life is assembled into a single file. That file may be read by more than the bank, and the questions it raises may reach far beyond whether an account remains open.

A document supports some propositions and leaves others unanswered. A tax return supports declared income but not the source of particular funds; a foreign declaration supports a filing but not payment, profit or lawful routing; a company's formation documents support its existence but not the history of the business it now conducts. Every submission should be built on that discipline.

Source of wealth, source of funds, ownership and control, and legal compliance are separate questions, and the expected activity recorded at onboarding is the baseline against which all of them are measured.

Information moves. Suspicious activity reports and their supporting documentation, currency and foreign-account reports, section 314 channels, subpoenas and summonses, correspondent-account process, FATCA reporting, consumer reports and public sources all mean that what is told to one institution may be compared with what is told to another, or to an agency. Availability, review and investigation are nevertheless separate events.

The underlying exposures are specific and knowable. Sanctions turn on the identity and status of institutions on particular dates and on the location of the person acting; tax residency turns on tests applied person by person and year by year; FBAR and Form 8938 turn on balances, authority and filing status; entity forms turn on classification and ownership; immigration consequences turn on what was actually done. Each can be investigated from records.

Accuracy, not uniformity, is the objective. Legitimate differences of measurement should be explained. Real discrepancies should be corrected through the proper procedure. Records should never be altered to agree.

Correction routes have conditions and distinct effects. Evaluate the actual violation, available defenses, eligibility, timing, and the scope of any agreement. A bank extension does not suspend another deadline or preserve a disclosure opportunity. Address continuing prohibitions and required filings while investigating the past.

The outcome of a banking review is determined less by advocacy than by records. Most of the useful records are in the client's hands or obtainable by the client. The faster they are assembled, preserved and honestly analyzed, the more of what is possible can be converted into what is resolved.

APPENDIX A: IMMEDIATE-ACTION CHECKLIST

This checklist summarizes the steps in When a Bank Request Arrives and Chapter 17. It is a sequence, not a timetable, and it does not replace advice on the particular facts.

No.	Action	Reference
1	Verify the request through a channel known to belong to the bank	Chapter 17
2	Request written scope; if unavailable, document oral instructions and work to the stated deadline	Chapter 17
3	Collect everything previously sent to the bank by anyone	Chapter 17
4	Preserve all records, including web content and messages, with metadata	Chapters 16, 18
5	Preserve originals; do not destroy, backdate or falsify; document lawful corrections	Chapter 16
6	Identify every account, entity and person involved, including other banks	Chapters 9, 18
7	Ask whether any transfer was blocked, rejected, returned or delayed anywhere	Chapter 11
8	Pause movement of any funds that may be blocked; continue ordinary lawful payments	Chapters 10, 11
9	Separate the bank's deadline from legal deadlines	Chapter 17; Appendix I
10	Screen for conflicts between spouses, partners or family members	Chapter 17
11	Identify which of the five questions the request is asking	Chapter 5
12	Request a realistic extension, stating only true reasons, if needed	Chapter 17; Appendix J
13	Screen institutions that a document will reveal where sanctions questions are plausible	Chapters 10, 20
14	Prepare an accurate cover letter addressing material discrepancies	Chapter 20
15	Obtain written client authorization; keep a copy of exactly what is sent	Chapter 20
16	Assess related tax, reporting, sanctions and immigration questions	Part III
17	Consider correction routes and their timing before responding substantively where needed	Part V

APPENDIX B: QUESTIONS FOR THE BANK

Questions that are generally appropriate:

- Which accounts, persons and periods does the request cover?
- Which specific documents or information does the bank require to complete its review?
- In what form should documents be provided, and through which channel?
- Would a certified translation be required for foreign-language documents?
- Is a partial submission acceptable while other records are obtained, and by what date should the balance follow?
- Are there particular transactions the bank would like explained?
- Is the account currently restricted, and if so, may specified essential payments be made?
- If the bank intends to close the account, what is the timetable and how will the balance be delivered?
- May the client obtain copies of statements and other records for closed accounts?
- Will the bank confirm in writing when its review is complete?

Questions that generally will not obtain an answer or assurance:

- Whether the bank has filed a suspicious activity report, or whether one exists. The bank is generally prohibited from answering, and the question achieves nothing.
- Whether a government agency has asked about the client. The bank is unlikely to answer and may be prohibited from doing so.
- What the bank's internal risk rating is, or which monitoring scenario was triggered.
- Whether a relationship manager can "guarantee" that the account will remain open.

Completion of a bank's customer review, if confirmed, is not legal clearance by any government authority.

APPENDIX C: ACCOUNT AND OWNERSHIP INVENTORY

Complete one row for each account in every country, for each year under review. Distinguish carefully between the categories in the columns. Mark each entry as documented, reported or unresolved.

Institution and country	Account type and number	Opened / closed	Owner of record	Beneficial interest	Signature or other authority	Maximum value by year	Evidence and status

For each institution, record separately its exact legal name, parent company, and any sanctions or other restrictions with effective dates. For each entity, record its formation date, jurisdiction, owners and percentages, managers, tax classification and any elections.

APPENDIX D: CHRONOLOGY AND DISCREPANCY WORKSHEET

The chronology records events in date order. The discrepancy worksheet compares statements about the same subject made to different audiences.

Date	Event	Person or entity	Source document	Status
				Documented / reported / unresolved

Subject	Statement to bank	Tax filing	Immigration filing	Other record	Assessment
Business start date					Legitimate difference / real discrepancy / unresolved
Annual income					
Location of work					
Ownership					
Customer base					

For each real discrepancy, record the actual explanation, the evidence supporting it, and the correction route. Never alter an original record to remove a discrepancy.

APPENDIX E: EVIDENCE MATRIX

Document	Supports	Does not establish	Further evidence needed
United States tax return			
IRS transcript			
Foreign tax declaration	Declared figures and regime; filing only if corroborated	Payment; net profit; final version; payers; link to funds	Foreign verification; payment evidence; ledger
Foreign bank statement	Balances and transfers; institution	Underlying sources; institution's status on each date	Settlement reports; sanctions screening
Processor settlement report	Transactions, refunds, batching	Tax compliance; wealth	Ledger; returns
Formation documents	Entity existence and date	Economic ownership; prior business history	Operating agreement; transfer records
Sale, gift or inheritance records	Terms and entitlement; corroborate receipt	Subsequent movement of proceeds	Account statements

APPENDIX F: WORKED FINANCIAL RECONCILIATIONS

This fictional cash reconciliation assumes zero opening business cash, no borrowing, no other receipts and one owner entitled to the recorded withdrawal. Amounts are in local currency until conversion; the final rows show U.S. dollars. A separate entity would require evidence of the legal basis for an owner payment.

Item	Amount	Source
Gross customer sales for the period	1,000,000	Platform sales reports
Less refunds and chargebacks	(40,000)	Platform and processor reports
Less processor fees	(35,000)	Settlement statements
Net settlements to business account	925,000	Business account statement
Less business expenses paid from business account	(310,000)	Ledger and invoices
Less taxes paid	(60,000)	Tax payment records
Retained in business account at period end	(55,000)	Business account statement
Transferred to owner's personal account abroad	500,000	Both statements
Convert 500,000 local currency at 100 per USD	$5,000	Conversion confirmations
Less $25 wire fee; U.S. account credit	$4,975	Wire confirmations

The business-account check is 925,000 less 310,000 of expenses, 60,000 of taxes and 500,000 transferred, leaving 55,000. The transfer converts to $5,000 at 100 units per dollar; after a $25 wire fee, $4,975 arrives. The complete trace must connect the sales and settlement reports, both account holders, transfer dates, conversion and final credit. This cash schedule is not a U.S. taxable-income calculation or a complete statement of net worth.

Year	Net business income	Other income	Taxes	Living costs	Change in net assets

APPENDIX G: RESTRICTION AND REMEDY COMPARISON

Type	Authority	Reporting considerations	Release	Common error
Internal restriction	Account agreement	Restriction alone does not establish SAR filing or nonfiling	Bank	Treating it as a government freeze
Processing delay	Bank and correspondent screening	Delay alone does not establish a reporting duty	Bank	Resending the payment by another route
Commercial return	Operational or policy	Return alone does not establish an OFAC report; other reporting may apply	Sender or bank	Assuming a sanctions rejection
Sanctions rejection	Sanctions regulations	Rejecting U.S. person generally reports within 10 business days, subject to exceptions	Not applicable	Ignoring the effect on self-disclosure
OFAC blocking	Sanctions regulations	Blocked-property reports within 10 business days and annually	Applicable license, delisting or correction; identify controlling authority	Moving funds without authorization
Levy	I.R.C. § 6331	Notice to taxpayer	Taxing authority	Delaying contact with the IRS
Seizure	Forfeiture statutes	Notice of seizure	Court or agency	Missing claim deadlines

APPENDIX H: REPORTING AND REMEDIATION MATRICES

Obligation	Who	Threshold or trigger	Penalty authority	Correction route
FBAR	United States persons with foreign accounts	Aggregate maximum over $10,000	31 U.S.C. § 5321	Late filing with reasonable cause; Streamlined; VDP
Form 8938	Specified individuals and entities	$50,000/$75,000 and higher	I.R.C. § 6038D	Delinquent information return procedures; Streamlined; VDP
Form 5472	Foreign-owned domestic disregarded entities and certain corporations	Reportable transactions	I.R.C. § 6038A	Delinquent information return procedures
Form 5471	Certain United States persons with foreign corporations	Ownership and officer tests	I.R.C. § 6038	Delinquent information return procedures
Form 8858	United States owners of foreign disregarded entities and branches	Ownership or operation	I.R.C. § 6038	Delinquent information return procedures
Form 3520 / 3520-A	Foreign trust transactions; foreign gifts	Trust events; gifts over thresholds	I.R.C. §§ 6039F, 6677	Delinquent information return procedures
Blocked-property report	United States persons holding blocked property	Property becomes blocked; June 30 holdings	50 U.S.C. § 1705	File promptly; consider disclosure

The comparison of correction routes appears in Chapter 22 and the coordination table in Chapter 23.

APPENDIX I: DEADLINE AND LIMITATION-PERIOD REFERENCE

Item	Deadline or period	Note
Individual income tax return	Generally April 15 for calendar-year resident filers; Form 4868 extension generally to October 15	Extension of time to file is not extension of time to pay
FBAR	April 15; automatic extension to October 15	Filed with FinCEN, not with the return
Form 8938 and most information returns	Form 8938 accompanies the required return; other forms have their own rules	Forms 3520 and 3520-A are separately filed; confirm each form’s deadline and extension
Form 5472 with pro forma Form 1120	Corporate return due date, with extension	Applies to foreign-owned disregarded entities
Blocked-property initial report	Within 10 business days of blocking	31 C.F.R. § 501.603
Blocked-property annual report	By September 30, as of June 30	31 C.F.R. § 501.603
Rejected-transaction report	Within 10 business days, by the rejecting person	31 C.F.R. § 501.604
Income tax assessment	Generally 3 years from filing	Longer for substantial omissions, fraud, non-filing, missing information returns
FBAR civil penalty assessment	6 years from the violation	31 U.S.C. § 5321(b)
Sanctions enforcement	10 years for violations within the extended period	50 U.S.C. § 1705; transition rules apply
OFAC recordkeeping	Generally 10 years under the amended rule, effective March 12, 2025	Blocked property: retain for the period held plus 10 years after unblocking; check transition rules
Bank SAR and BSA record retention	5 years	Many BSA duties use five years; longer duties or preservation requirements may apply
Petition to quash an IRS third-party summons	20 days from notice	Only where § 7609 notice and petition rights apply; check exceptions
Consumer report dispute investigation	Generally 30 days	15 U.S.C. § 1681i

Apply the particular deadline's governing rules, including any weekend, holiday or disaster relief. Do not apply a universal next-business-day extension to every bank, licensing, reporting or litigation date. Filing extensions do not generally extend tax payment deadlines.

APPENDIX J: ANNOTATED CORRESPONDENCE EXAMPLES

The following examples illustrate structure and tone. They must be adapted to verified facts and authorized by the client before use.

Extension request

"We refer to your request dated [date] concerning account [number]. We are assembling the documents requested. The [foreign tax declaration] has been obtained and is being verified by [foreign counsel]; we expect verification by [date]. Statements for [account] have been requested from [institution]. We respectfully request an extension to [specific date], and we will provide [specific interim item] by [earlier date]."

Annotation. The request states what is outstanding and why, proposes a specific date and an interim step, and gives no reason that has not been verified.

Clarification request

"To ensure that our response is complete, could you please confirm whether your request for [tax documents] refers to [United States returns, foreign declarations, or both], and which accounts and periods the request for statements covers?"

Annotation. The request asks about scope, not about the bank's reasons or any report.

Partial production

"Enclosed is [document], which we are providing now. It shows [what it shows]. It does not show [what it does not show]. The [remaining items] are being assembled and will be provided by [date]. This submission does not yet respond to items [numbers] of your request."

Annotation. The letter identifies the submission as partial and does not imply that the request has been answered in full.

Factual correction

"In our conversation of [date], the business was described as [earlier description]. That description was incomplete. The business [accurate description], as shown by [documents]. The earlier description arose because [verified explanation]."

Annotation. The correction states the earlier answer, the accurate position and the reason for the difference, supported by documents. It does not restate the history as though the earlier answer had not been given.

APPENDIX K: FREQUENTLY ASKED QUESTIONS

Will sending my tax return end the review? It may satisfy that request. Ask whether anything else remains outstanding. A return shows what was declared; statements, payment records or a short reconciliation may still be needed to explain the source and movement of the money. See Chapter 5.

Does a bank request mean a SAR was filed? No. A request alone does not tell you whether a report exists, and the bank generally cannot tell you. Focus on the underlying questions and the records needed to answer them. A SAR is not a finding of wrongdoing.

Should I ask the bank whether a report was filed? No. The bank cannot answer, and the question achieves nothing. Ask what the bank needs to complete its review.

The bank processed these transfers for years. Why is it asking now? Reviews are periodic and can be triggered by changes in activity, in the bank's risk models, in sanctions or in other circumstances. Processing a transaction was never an approval of its legal character. See Chapter 2.

I am not a United States citizen or green-card holder. Do United States sanctions apply to me? While you are in the United States, generally yes. Most programs define United States persons to include any person in the United States. Tax residency is a different question with a different answer. See Chapter 10.

My foreign account never had much money at the end of the year. Do I need to file an FBAR? Possibly. The test is the aggregate maximum value during the year across all foreign accounts, including accounts over which you only have signature authority. A large balance for a single day counts. See Chapter 13.

My spouse and I file separately. Does that reduce our reporting? Not necessarily. For Form 8938, a married person filing separately faces the lower threshold. FBAR obligations are assessed person by person regardless of return status. See Chapter 13.

I own a United States LLC but I was not a United States tax resident. Did the company have to file anything? Possibly Form 5472 with a pro forma Form 1120, if the company was a single-member disregarded entity owned by a foreign person and had reportable transactions, including your capital contributions. See Chapter 14.

Can student status fail to exclude days even if my visa was not revoked? Yes. The tax rules require substantial compliance with the relevant immigration status. Counsel should review your activities, work authorization and dates, then apply the residence tests and any available exceptions for each year. Losing an exclusion of days does not by itself establish tax residence. See Chapter 12.

Can I fix old records so that they match what I told the bank? No. Preserve the originals. Explain legitimate differences and correct real errors through the proper procedure. Altering records can create far more serious problems than the original discrepancy. See Chapter 16.

Should I just close the account and move to another bank? Closing an account ends the relationship, not the questions. Any report remains, the bank's records are retained, and a new bank will ask its own questions. If funds may be blocked, moving them may itself be prohibited. See Chapters 11 and 24.

Should I send an explanation to FinCEN? Speak with counsel first. An unsolicited rebuttal to a suspected SAR is not an ordinary appeal procedure. A reporting error, identity theft or an established violation may call for a different, formal response. Keep meeting required filing deadlines while that choice is assessed. See Chapters 6 and 23.

Is it better to file amended returns quietly? For simple errors, an amended return may be entirely appropriate. Where willfulness may be in question, or where offshore reporting was missed, a planned correction through an established procedure is usually better. See Chapter 21.

If my company makes a voluntary disclosure, am I protected personally? Not automatically. Department of Justice corporate policies preserve the ability to prosecute individuals. See Chapter 23.

An IRS agent came to my home. What should I do? Be courteous, take the agent's name and contact details, and say that you will have counsel contact them. Do not answer substantive questions without counsel. See Chapter 26.

APPENDIX L A FICTIONAL REVIEW FROM REQUEST TO RESOLUTION

The request

Assume a client operates a foreign online training business, later forms a U.S. company and receives several transfers through an account in another country. The bank asks for one tax year and supporting statements. Its file describes the new company as having operated for several years and records a personal wealth estimate. These assumed facts do not establish misconduct; they identify questions to resolve.

The factual reconstruction

Counsel retrieves the actual questionnaire and previous submissions, records the current request and deadline, and distinguishes the older business from the new legal entity. The tax declaration reports gross receipts. Platform records show individual purchases and processor reports show settlements after refunds and fees. Business expenses, taxes, earlier savings and the owner's withdrawal are then reconciled to the transfers. A net-worth schedule separately identifies assets, liabilities and valuation dates.

The parallel legal review

For each person, counsel tests residency, ownership, signature authority and relevant filing history. Each bank and processor is identified and screened against the restrictions in effect on the transaction dates. Counsel does not infer nonfiling from a missing copy, sanctions violations from geography, or unauthorized work from a title. Where documents remain unavailable, the advice identifies the competing possibilities and the evidence needed to distinguish them.

The response decision

If the selected records support an accurate answer, a factual submission can explain gross versus net, legal entity versus business history, and settlement aggregation. If a material issue remains unresolved, a realistic extension or expressly partial response may be appropriate. A statement already held is described as under review, rather than falsely described as unobtainable. Client authority, exact enclosures and delivery are retained.

If a reporting omission is established

The client and counsel separately evaluate an ordinary correction, statutory defense or administrative procedure. They assess nonwillfulness and reasonable cause independently, check agency contact and other timing events, and meet current duties. A bank response does not itself cure a missed FBAR, and an amended tax return does not resolve a separate sanctions issue. The appropriate sequence depends on the actual conditions of each route.

Possible outcomes

The bank may complete its review, request more evidence or close the account. Closure does not establish a violation; retention does not establish compliance. Any government inquiry requires a separate response. These fictional outcomes predict neither a result nor eligibility for relief.

APPENDIX M GLOSSARY AND STATEMENT REQUEST DECISION GUIDE

Beneficial interest. An economic or other legally recognized interest distinct from account title; determine its meaning under the relevant rule.

Blocked property. Property subject to sanctions restrictions prohibiting unauthorized dealings; blocking does not itself transfer ownership.

CDD and EDD. Customer due diligence and enhanced due diligence: understanding and monitoring a relationship, with additional inquiry where required or appropriate.

CIP. Customer identification program: the bank's risk-based procedures for identifying and verifying customers.

CTR. Currency transaction report: a report of qualifying physical-cash transactions, distinct from a SAR.

FBAR. FinCEN Form 114 reporting qualifying foreign financial accounts; filed separately from an income tax return.

Financial interest. A reporting concept that can reach direct title and specified indirect ownership or nominee arrangements.

General license. A public OFAC authorization usable without individual application when every applicable condition is met.

Reasonable cause. A statutory or regulatory defense to particular penalties; its conditions vary and it is not synonymous with nonwillfulness.

SAR. Suspicious activity report: an institution's confidential report of qualifying suspicious activity, not an adjudication.

Signature authority. Power, alone or with another, to direct disposition of account assets through communication with the institution, subject to the relevant reporting definition.

Source of funds. The economic origin and movement of a particular payment or balance.

Source of wealth. How assets and net worth accumulated over time.

Specific license. An individualized OFAC authorization issued on application for the described conduct and subject to its terms.

Voluntary disclosure. A submission assessed under a particular agency's eligibility, timing and cooperation rules; not a generic grant of immunity.

Willfulness. A mental-state standard whose meaning differs by statute and between civil and criminal proceedings.

When the bank asks for statements

1. Confirm the accounts, holders, periods, purpose, deadline and secure submission channel. Record oral instructions if written confirmation is unavailable.

2. Preserve and review complete records and what the bank already holds. If a statement is missing, request it and identify the gap accurately.

3. If the statements reveal a plausible sanctions, reporting or false-statement issue, obtain proportionate review promptly. Identify institutions and dates without assuming a violation.

4. If the material facts can be explained accurately, prepare the responsive records and necessary context. If they cannot, consider clarification, an extension, an expressly partial response or an informed decision to decline the private request.

5. Independently meet legal deadlines and assess any correction route. A bank extension or partial response does not preserve agency eligibility.

6. Obtain authority, send through the agreed channel, preserve the exact submission and monitor outstanding requests. Do not obscure material information or reroute restricted funds.

TABLE OF AUTHORITIES

Selected authorities cited in the substantive chapters and appendices. This Word table is linked to marked citations. Update the entire table after editing or repagination; the References provide the broader source list.

No table of authorities entries found.

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5. Equal Credit Opportunity Act, 15 U.S.C. § 1691 et seq.
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ABOUT THE AUTHOR

Viacheslav Kutuzov is an attorney and counselor-at-law admitted to practice in the State of New York and the Managing Partner of Kutuzov & Associates, P.C. in New York City. His practice is concentrated in banking and anti-money-laundering compliance, United States and international taxation, economic sanctions, and commercial and corporate law. He advises individuals, closely held businesses and their advisers, most often where a banking relationship and a cross-border tax or reporting question arise from the same facts.

In banking matters, Mr. Kutuzov represents customers in due-diligence and enhanced due-diligence reviews, requests for information, account restrictions, payment rejections and account closures. That work includes reconstructing source of wealth and tracing source of funds; assembling and verifying documentary records, including foreign filings and payment-processor data; preparing submissions and corrections to institutions; advising on the Bank Secrecy Act framework that prompts such reviews, including the suspicious activity reporting rules, currency transaction and Form 8300 reporting, customer identification and beneficial ownership requirements, and information sharing among institutions; and pursuing complaints to the appropriate banking regulator and disputes with specialty consumer reporting agencies.

His taxation practice centers on United States and international tax, with particular emphasis on Subchapter N of the Internal Revenue Code — the regime governing the taxation of cross-border income. He advises on residency determinations, income-tax treaties, cross-border transactions and structuring, and he handles the foreign-account and information-reporting obligations that banking reviews most often surface — the Report of Foreign Bank and Financial Accounts, Form 8938, and Forms 5471, 5472, 8858, 8865 and 3520 — together with the corrective routes available through the streamlined procedures, delinquent information return submissions and the Voluntary Disclosure Practice, and the examinations and controversies that follow.

In sanctions matters, Mr. Kutuzov advises on counterparty due diligence and screening against the Specially Designated Nationals and Blocked Persons List, the Fifty Percent Rule, reliance on general licenses and applications for specific licenses, blocked and rejected property reporting, voluntary self-disclosure to the Office of Foreign Assets Control, enforcement response, delisting and remediation. He is the author of United States Economic Sanctions Against the Russian Federation (Second Edition, 2026). His commercial and corporate practice covers commercial agreements, secured transactions and negotiable instruments, and the formation, governance and reorganization of business entities.

Mr. Kutuzov holds a Master of Laws in Taxation from New York Law School and a law degree from the HSE University School of Law in Moscow. He is an Enrolled Agent admitted to practice before the

Internal Revenue Service and a Foreign Legal Consultant in New York. He is a member of the American Bar Association, the New York State Bar Association, and the New York City Bar Association.

FOR NOTES

DATE: ______________________________

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