

GOOD \$ENSE

A newsletter from the Financial Institutions
Group of Kennedy and Coe, LLC



Internal Controls

Here's a recipe for the vast majority of employee fraud situations we see.

- Take a long term or trusted bank employee,
- Mix in an adverse change in the employees personal circumstances, and
- Add a liberal dose of a bank culture with poor internal controls and limited internal audit

That's a recipe that scares every banker that reads this. Maybe it's due to the recent economy, but we have seen a bit of an uptick in bank employee related fraudulent activities. Tough economic times, poor internal controls, and an obvious lack of internal audit set the stage for any employees who may take advantage of an opportunity. You can't always foil every perpetrator, but you can reduce the chances that all but the most determined will succeed, or even attempt something.

As the pressure to reduce or minimize staff grows, and perhaps relax certain controls, be prudent in your choices. Dual control may seem old school but is really state of the art in certain circumstances. And be sure the second person in the dual control has the depth of knowledge to question the transaction if necessary. Remember, a culture of strong internal controls protects your employees, stockholders, and their families from unfortunate and unpleasant circumstances.

MLO Compliance Update

It seems that the hot topic these days is the Mortgage Loan Originator (MLO) compensation rules, especially deferred compensation or bonus compensation. And recently we've noticed a complicating factor – too many bankers being designated as MLO's in a bank. In a community bank the tendency is everybody does everything. Sometimes it's a matter of customer service and sometimes it's a matter not wanting to designate a specialist. But specialists in this area are a prudent choice because:

The real estate lending rules these days are complex and don't look like they're getting any simpler. Narrow down the MLO's in your organization. Allow them to focus. Just a reminder... MLO's make consumer purpose real estate loans – loans for personal, family, or household purpose. *Commercial lenders that make loans for investment properties secured by one to four family property are not MLO's.*

And... lots of MLO's complicates the compensation process, especially any bank wide or executive bonus plans or deferred compensation that the MLO receives – because typically bank bonus plans are based on profitability and profitability related to the mortgage loan origination must be factored out first if MLO's are included in the plan. Reducing the number of MLO's can increase their effectiveness and reduces the complexity of your compensation issues.

Conducting an I-9 Form Audit Is your Bank in Compliance?

The Department of Homeland Security is now responsible for Immigration Compliance. Their philosophy is that most illegal immigrants come to the United State looking for work, and they think they can slow down the number of illegal immigrants entering the United States if they hold employers accountable for ensuring their employees can legally work in this country. This is one of the few branches of the government that is hiring new employees and making money through fines and penalties paid by employers who are out of compliance with Immigration Laws or who have inaccurately completed their I-9 Forms.

To assist you in avoiding potential fines and penalties, we have provided some common errors that we find in I-9 Audits:

- ❖ Filing the social security card, drivers license, passport or visa in the personnel file. These documents should be kept with the I-9 form in a separate file or notebook.
- ❖ Keeping copies of I-9 form documents for some employees and not other employees. You should be consistent in your recordkeeping and copies of documents can help support your good faith effort if your documentation is challenged.
- ❖ Expired Resident Alien cards. Drivers licenses don't have to be renewed, but Resident Alien cards must be renewed and documented on the I-9 Form.
- ❖ Documenting information in List A and C ; instead of List A, or Lists B and C. If you use the documents listed in List A, you don't need any further documentation in Lists B or C.
- ❖ Company representatives not providing complete information from the appropriate documents on List A, or Lists B and C.
- ❖ Employees forget to date their signature in Section A .
- ❖ Company representatives completing the I-9 form omit the new hire date in the verbiage prior to their signature in Section B.
- ❖ Company representatives only complete part of the signature information instead of providing all of the company information on the I-9 forms.
- ❖ We recommend active employee I-9 forms should be filed in alphabetical order, so it's easier for a government auditor to compare them to your payroll records for completeness.
- ❖ Terminated employee I-9 forms should be filed together by month terminated so you can purge out-dated records more easily.

We look forward to seeing you at the 2012 Tri-State Leadership and Human Resource Conference on Thursday, March 29, 2012. Amy Shoemaker, PHR, CMC, Director People Growth Strategies will present two break-out sessions on the value of an HR Audit, which includes an I-9 form audit to ensure your bank is in compliance with federal and state laws and regulations. Amy Shoemaker has over 25 years experience leading the Human Resource function, including Vice President of Human Resources and Training for a community bank in Kansas. Her presentation mirrors her audit reports since they are filled with practical knowledge and advise to enhance the "people" aspect of your bank.

If you would prefer to receive this newsletter electronically or would like any additional information regarding the above topics, please contact Audra Dinell at adinell@kcoe.com or 800-303-3241.

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