

Annual CEO Attestation

7. Under the final rule, banking entities subject to the enhanced minimum standards for compliance programs under Appendix B of the final rule must provide an annual CEO attestation regarding the banking entity's compliance program. When must the first annual CEO attestation required under Appendix B be provided to the relevant Agency?

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Appendix B of the final rule provides that, based on a review by the CEO of the banking entity, the CEO of the banking entity must, annually, attest in writing to the relevant Agency that the banking entity has in place processes to establish, maintain, enforce, review, test and modify the compliance program established under Appendix B and § 351.20 of the final rule in a manner reasonably designed to achieve compliance with section 13 of the BHC Act and the final rule.¹

As noted in the Board Order extending the conformance period under section 13 of the BHC Act, each banking entity must conform its proprietary trading activities and covered fund activities and investments to the prohibitions and requirements of section 13 and the final rule by no later than the end of the conformance period. As a result, banking entities must meet the compliance program requirements of the final rule by the end of the conformance period, which is currently July 21, 2015.

The CEO attestation under Appendix B of the final rule is an annual requirement. The staffs of the Agencies believe that banking entities subject to Appendix B as of the end of the conformance period should submit the first CEO attestation required under Appendix B after the end of the conformance period but no later than March 31, 2016. A banking entity may provide the required annual attestation in writing at any time prior to the March 31 deadline to the relevant Agency. This allows the CEO time to review the design and operation of the entity's compliance program after the program is fully implemented to ensure it is reasonably designed to achieve compliance with section 13 and the final rule. Banking entities that become subject to Appendix B after the end of the conformance period should submit their first CEO attestation within one year of becoming subject to Appendix B.² Thereafter, banking entities should provide the CEO attestation annually within one year of its prior attestation.

¹ 12 CFR Part 351, Appendix B.

² For example, a banking entity with between \$25 billion and \$50 billion in trading assets and liabilities, as described in §§351.20(c)(1) and (d), will be required to implement an enhanced compliance program by April 30, 2016. This banking entity would be required to provide its first CEO attestation to the relevant Agency by April 30, 2017.