

Jordan, Sheron

From: _Regulatory Comments
Sent: Friday, July 21, 2006 8:51 AM
To: Jordan, Sheron
Subject: FW: Harry L. Metz, Jr. Comments on Notice of Proposed Rulemaking (Suspicious Activity Report)

From: Metz, Harry [mailto:harry.metz@allsouth.org]
Sent: Thursday, July 20, 2006 1:33 PM
To: regcomments@ncua.gov.
Subject: Harry L. Metz, Jr. Comments on Notice of Proposed Rulemaking (Suspicious Activity Report)

Dear Ms. Rupp,

This is in regards to the proposed rule to require prompt notification of the board members of any SAR filed. Our current practice is to not provide such notification. The purpose of our practice is to minimize the potential for an improper disclosure of SAR information.

The currently proposed rule is unclear. A definition of “prompt” is needed to amend current operational procedures to ensure compliance. Additional explanation is needed on what constitutes a “notification”. Does proper notification require specific information as to the identities of the parties involved; type of suspected criminal activity; and/or dollar amounts of suspected activity? Is the proposed notification required to be in writing? Would a periodic total of SARs filed be sufficient? Would a discussion of the SARs filed become a board meeting agenda item?

There is a significant concern about the increased risks of a breach of confidentiality of SAR information resulting from notification of the board. Credit union board members are very likely to know, be known by and to be in contact with the membership. The chance exists for a SAR filing to involve someone known or related to a member of the board or their family members or by business and community acquaintances. The requirement for board notification could place board members in a difficult position between their personal obligations and fiduciary duties. A breach of confidentiality (intentional or not) could result in serious consequences for all parties involved and negate the purpose and benefit of the SAR.

The proposed rule for situations where a member of the board is the subject of the SAR reveals the potential for an impractical process. To notify all board members not subjects of a SAR would require specific written reports about which board members would be precluded from discussing in presence of the SAR subject board member. What is the purpose of the notification if board members are not permitted to discuss and question to ensure propriety? Should the subject board member be asked to leave the meeting without explanation just before the agenda item of SAR Filings? The structure and relationship between members of the board would make compliance with the proposed requirement very difficult.

Current BSA and Treasury regulations do not require notification of the board of directors of SAR filings. Some credit unions provide notification as a matter of practice. It is our practice to minimize the number of individuals in possession of SAR information. This is a conscious effort to minimize the credit union’s exposure to a breach of SAR confidentiality and the Safe Harbor. This additional

precaution is taken because of the nature of the information often contained in the SAR.

Unlike a delinquency report that details actual and verifiable member action, the SAR could contain a description of suspected criminal activity. The SAR is often an accusation of an illegality. This exposes the credit union and employees to a number of unique and serious risks associated with filing a SAR. The Safe Harbor provides a barely sufficient sense of protection to employees. The anonymity provided by the Safe Harbor makes it possible for many of the SARs to be filed. It is possible that employees would be less inclined to recognize and report suspicious activity if information about SARs filed became more widely distributed. To maximize the level of protection to the SAR reporting staff, our practice is to limit the in-house distribution of information about SARs filed to the employee initiating the SAR and the Compliance Officer.

The proposed notification requirement would result in a new avenue of risk for an improper release of SAR information without a justifiable benefit. My suggestion is to eliminate this proposed requirement.

Thank you,

Harry L. Metz, Jr., NCCO
Compliance Officer
AllSouth Federal Credit Union