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Sent: Thursday, April 28, 2005 10:59 PM  
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Cc: Cheryl Nakashige  
Subject: EGRPRA

Dear Regulators and Mr. Reich:

In viewing the comments thus far, almost everyone has commented on the burdens placed on financial institutions in the area of the Bank Secrecy Act and related regulations. I saw few, if any, comments regarding the safety and soundness or securities regulations where comments were encouraged. As you are keenly aware, the BSA and USA Patriot Act have been a huge strain on financial institutions' resources since 9-11. Our bank is a \$225 million community bank in Florida (making BSA even more burdensome). My duties include compliance, BSA, and CRA. The effectiveness of my bank's compliance program has suffered, in my opinion, due to all the risk that has been placed in the BSA area and the vast amount of resources that I have to devote to it on a daily basis. While we do our part to fight terrorism, money laundering, and other financial crimes, examiners continue to add more and more recommendations for BSA--despite a strong program that we have in place.

As many others have commented, the \$10,000 reporting threshold needs to certainly be increased in order to reduce the regulatory burden of financial institutions (and IRS personnel who have to enter BSA reports into their systems). We suggest that the threshold be increased to at least \$25,000. It is also recommended that a study be done to determine how many CTRs can be eliminated from the IRS database if the threshold is increased to \$25,000 or even a higher figure. My guess is that at least 50% of the CTRs could be eliminated at this higher threshold figure. CTRs, in our opinion, are no longer useful for the prosecution and investigation of criminal activity, money laundering, counter-intelligence and international terrorism--the goal of the BSA.

Just as important, the filing threshold for Suspicious Activity Reports needs to be increased. We recommend that reports be filed for violations aggregating \$25,000 or more where a suspect can be identified (to coincide with the CTR reporting requirement). SARs should also be filed for any violations aggregating \$50,000 or more regardless of potential suspects. The insider abuse amount also should be revised to a recommended \$5,000 level. It is foolish to have to file a SAR on an insiders who may have pilfered a few dollars, which I have had to do in the past. It serves absolutely no purpose. Personally, a local investigator stated that they won't even touch a BSA case unless there is at least \$100,000 involved. It would be beneficial to get financial crime investigators recommendations for SAR thresholds since banks seem to be doing most of the investigative work to begin with.

The major reasons for increasing the SAR filing thresholds is to reduce the burden on financial institution personnel, in addition to reducing the unnecessary SARs that are cluttering up FinCEN's database. This also may eliminate a lot of the "defensive filing" that is occurring, and actually help investigative personnel weed out the SAR activity that is worth pursuing. A majority of the SARs that are being filed is for structuring. By increasing the CTR amount to at least \$25,000, I would imagine the structuring incidents would contrastly be reduced. This would prove beneficial to financial institutions who have to track structuring for SAR purposes (manual tracking is very time

consuming).

More specific guidance from the regulatory agencies or FinCEN also is recommended on when to file SARs, what documentation to retain, etc. Guidance has been provided on how to more accurately complete a SAR but further clarification is needed in the industry as to when to file the SARs and not do them defensively.

It also is recommended that the timeframe for filing be increased to file a SAR no later than 60 days after the date of the initial detection of facts and delay for an additional 30 days to identify a suspect. In speaking with local investigators, they stated that it is at least three months after an institution has submitted a SAR before they may even look at the local ones filed. It is extremely burdensome to gather all the facts and prepare SARs in such a short timeframe, and then investigators may not even review them for months--if they are even reviewed at all. It takes years for some of the money laundering or terrorism cases to be heard in a courtroom as well so increasing the timeframes to file SARs would not burden investigators (only financial institutions).

It is also extremely burdensome to file a follow-up SAR every 90 days if the activity continues. While this is FinCEN guidance, this basically is the rule for examiners and auditors. In many cases, it is just easier to close out the accounts--even when the activity may be purely legitimate but a defensive SAR filing is done just in case. It is recommended that FinCEN readdress this area and possibly eliminate this 90-day rule. If a follow-up SAR is required when a pattern changes, that is sufficient in our opinion.

Further, we would like to see the monetary instrument log requirement for non-customers increased to at least \$10,000 from \$3,000. The \$3,000 threshold does not seem to serve any purpose. It is difficult enough to determine if customers are structuring transactions, much less non-customers who may be trying to purchase monetary instruments and structure below the \$3,000 threshold. In fact, most institutions may have eliminated selling monetary instruments to non-customers in the first place when the regulations initially went into affect since this proved to be a big regulatory burden. By increasing the amount to \$10,000 this would certainly reduce the burden in this area for institutions who still sell to non-customers.

If banks that exempt customers are required to monitor them on an annual basis, it is recommended that the biannual filing of exempt customers be eliminated. The initial exemption filing could be in place until the financial institution revokes the exemption. Auditors and examiners review exemption status each time to ensure banks are still complying so eliminating this reporting would reduce the regulatory burden in this area.

We won't even touch the Money Service Business issue, but we are at least thankful that additional regulatory guidance has been provided to the industry recently. The BSA interagency groups are a useful tool and we hope that it is used to its fullest potential to give more guidance to financial institutions and bring about more consistency in examinations.

Well, it is almost 11:00 P.M. This means that I had no time to finish this comment letter at the office due to all my other compliance duties that are overwhelming my desk. Implementing any of these recommendations would be a great start to helping compliance and BSA officers more effectively do their jobs and reduce the regulatory burden that is consuming our work weeks (and weekends). Thank you for your consideration of these recommendations.

Sincerely,

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