



IOWA BANKERS ASSOCIATION

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May 4, 2005

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve
System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551
Docket No. OP-1220

Office of the Comptroller of the Currency
240 E Street, SW., Mailstop 1-5
Washington, D.C. 20219
Attention: Docket 05-01

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429
Attention: EGRPRA burden reduction
comment

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, D.C. 20552
No. 2005-02

Re: Request for Burden Reduction Recommendations: Money Laundering

Ladies and Gentlemen,

Iowa Bankers Association (IBA) is a trade association representing nearly 95% of 417 banks and savings associations in the State of Iowa. We appreciate this opportunity to comment on the money laundering category of the Agencies' EGRPRA review.

Need for Statutory Change

The federal agencies regulatory procedures for monitoring Bank Secrecy Act (BSA) compliance include requirements for accurate currency transaction reporting (CTR). When BSA was enacted in 1970, the statute set forth a filing obligation for transactions involving currency of more than \$10,000 in a single business day (31 CFR 103.22). This threshold has not been adjusted in the 35 years since enactment, and as a result, many CTRs are filed that are of little or no benefit to bank regulators or law enforcement. IBA supports indexing this reporting threshold tied to inflation or similar index, and recommends an immediate adjustment from the 1970 level that would be representative of such indexing. In addition, the SAR thresholds (31 CFR 103.18) should also be re-evaluated and increased to reflect an indexed level or to levels that would more appropriately reflect law enforcement's interest in further investigation (perhaps \$10,000 when a suspect is known; \$50,000 when no suspect has been identified). So often, bankers complain that they file a SAR and make a voluntary referral to law enforcement only to be told that the amount of the suspected crime is so small that law enforcement doesn't have the resources to investigate. Some bankers report that federal investigators have stated they don't even look at aggregate amounts under \$50,000. If that's truly the case, what value is it to banking agencies and law enforcement to file reports below these levels? Wouldn't the industry be better served by working with local

law enforcement to shut down the potential criminal activity and not be burdened with the SAR filing requirement?

In addition to increasing the CTR and SAR reporting thresholds, the agencies should take a serious look at how reports are utilized once submitted. At a recent compliance conference, a nationally recognized BSA consultant suggested that very little is done by the IRS Detroit Computing Center to aggregate or analyze CTRs, or to proactively alert appropriate law enforcement of trends that may be evidenced if such analysis might be conducted. Instead, the data base is believed to be used primarily for matching against bona-fide law enforcement requests to determine if suspects under investigation have conducted reportable currency transactions or have been named as suspects in SARs. We question the value of such a reporting system, estimated by the American Bankers Association (ABA) to cause a compliance burden of an average of 200 “man hours” per institution.^a We advocate for more aggressive analysis and effective use of the data provided in these reports. Barring such, perhaps CTR and SAR reporting should be eliminated entirely, as these reports may have outlived their “high degree of usefulness” in the investigation and prosecution of criminal and money laundering activity.

The same argument may be made for increasing the threshold for records related to purchases and redemption of bank checks and drafts, cashier’s checks, money orders and traveler’s checks. Under the current BSA, 31 CFR 103.29, records are required for cash purchases/redemptions of these monetary instruments in amounts between \$3,000 and \$10,000. These thresholds should also be indexed to coincide with a revised threshold for CTR filing. Likewise, the threshold for reporting transportation of currency or monetary instruments, as required at 31 CFR 103.23, should also be indexed from the current level of \$10,000.

If CTR and SAR reporting continues, we recommend a change to the current rule governing CTR exemptions, specifically the requirement for biennial filing with respect to non-listed and payroll entities (31 CFR 103.22(d)(5)). Since banks must conduct annual reviews of exempt persons to determine that they remain eligible for exemption, the biennial renewals seem superfluous, particularly when the exempt person’s business, transactions and financial products/services have not substantially changed from the initial designation. We advocate elimination of the biennial filing, and recommend that a subsequent filing need be made only when there is a substantive change from the initial designation.

Consistency and Redundancy

Several of the record-keeping requirements under BSA are duplicative or redundant of record-keeping requirements under other federal or state laws. For example, BSA record-keeping for signature authority is duplicative of USA PATRIOT Act Customer Identification Program (CIP) requirements for documentation of the method to verify a customer’s identification. Specifically, 31 CFR 103.34(b)(1) requires each signature card for deposit or share accounts to include notations of specify identifying information verifying the identity of the signer; 31 CFR 103.121(b)(2)(ii) requires similar identity verification and documentation, although the requirements of 103.121(b)(2)(ii) are applicable in scope to other types of accounts and not simply restricted to “deposit or share” accounts. Given the requirements of 103.121(b)(2)(ii), perhaps 31 CFR 103.34(b)(1) should be stricken from the Act.

A similar redundancy is found at 31 CFR 103.34(b)(11) , where a record must be retained of each “name, address and taxpayer identification number” for purchasers of certificates of deposit; this is duplicative of the requirement at 31 CFR 103.121(b)(2)(i) where the name, date of birth (for an individual), address and identification number of each customer is required. Though 31 CFR

103.34(b)(11) also requires additional records related to the certificate issued, the identifying information of the purchaser is redundant and should be stricken.

In general, 31 CFR 103.34(b) should be compared to 31 CFR 103.121(b) to eliminate overlaps or redundancies where they exist in relation to identifying customers and retaining documentation of such identification.

Clarity

Many of the concerns expressed by bankers deal more with examination practices and inconsistencies in interpretation of the law among examining agencies. We applaud the agencies and FinCEN in hearing these concerns and taking steps to address them. The recent guidance documents issued by FinCEN regarding managing account relationships with money services businesses, further interpretations of customer identification program requirements, guidance on completion of the SAR narrative, and the pending release of interagency examination procedures provide great support to the industry's efforts to comply with this complex set of laws. We recommend additional guidance to assist banks in conducting appropriate risk assessments in establishing overall BSA/AML programs consistent with the bank's size, product mix and community demographics. Many of our member banks have expressed interest in opportunities to meet with regulators once the interagency exam procedures are released to discuss the application of the procedures, examiner expectations and desired outcomes.

Another concern frequently expressed by bankers is that for all the time, effort and resources expended in daily monitoring, training, record-keeping, reporting (both CTRs and SARs), and 314(a) administration, very little communication is provided from the agencies or law enforcement to identify outcomes and results of the industry's monumental efforts to assist in identifying and averting financial crimes. It would be helpful in sustaining the industry's BSA efforts to know the outcomes, and to understand more clearly how the records and reports are utilized in law enforcement efforts. The "SAR Activity Review" is a good start to this communication; however, more is needed.

Thank you for your consideration of these comments. Feel free to contact me at 515-286-4391 or dbauman@iowabankers.com should you have questions.

Sincerely,



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^a ABA Comment Letter, "Comment Request – Procedures for Monitoring Bank Secrecy Act OMB 1550-0041," February 14, 2005.