



August 21, 2006

VIA EMAIL

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal
Reserve System
20th Street and Constitution Ave. NW
Washington, DC 20551
regs.comments@federalreserve.gov
Docket No. R-1258

Financial Crimes Enforcement
Network, FinCEN
P.O. Box 39
Vienna, VA 22183
regcomments@fincen.treas.gov
1506-AA86

Re: Advance Notice of Public Rulemaking, Threshold for the Requirement to Collect, Retain, and Transmit Information on Funds Transfers and Transmittals of Funds.

Dear Sirs and Madams:

The Wisconsin Bankers Association (WBA) is the largest financial institution trade association in Wisconsin, representing approximately 300 state and nationally chartered banks, savings and loan associations, and savings banks located in communities throughout the state. WBA appreciates the opportunity to comment on the advance notice of proposed rulemaking (ANPR) addressing the threshold for the requirement to collect, retain, and transmit information on funds transfers and transmittals of funds.

The Board of Governors of the Federal Reserve System (FRB) and Financial Crimes Enforcement Network (FinCEN) (collectively, the Agencies) have issued an ANPR to collect information from law enforcement and financial institutions to assess whether the potential benefit to law enforcement of a lower funds transfers and transmittals of funds threshold, or the elimination of such threshold, would outweigh the potential burden to financial institutions. Under current Bank Secrecy Act (BSA) recordkeeping rules and FinCEN travel rules, banks and non-bank financial institutions are required to collect, retain, and transmit information on funds transfers and transmittals of funds in amounts of \$3000 or more. To assist the Agencies with this assessment, WBA offers the following comments.

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Overview

The BSA recordkeeping rules require the originator's bank or transmitter's financial institution to collect and retain the following information: (1) name and address of the originator or transmitter; (2) amount of the payment or transmittal order; (3) execution date of the payment or transmittal order; (4) any payment instructions received from the originator or transmitter with the payment or transmittal order; and (5) identity of the beneficiary's bank or recipient's financial institution. In addition to these requirements the originator's bank or transmitter's financial institution is required to retain information the bank or non-bank financial institution receives with the payment or transmittal order. The bank or non-financial institution must also collect as much of the following information as possible: (1) name and address of the beneficiary or recipient; (2) account number of the beneficiary or recipient; and (3) any other specific identifier of the beneficiary or recipient.

Further, if the person placing a payment or transmittal order is made in-person and is not an established customer, the originator's bank or transmitter's financial institution must verify the identity of the person placing the payment or transmittal order. Similarly, if the beneficiary's bank or recipient's financial institution delivers the proceeds to the beneficiary or recipient in-person, the bank or non-bank financial institution must verify the identity of the beneficiary or recipient. If the beneficiary or recipient is not an established customer of the bank or non-financial institution, the bank or non-financial institution is required to collect and retain items of information identifying the non-established customer.

In addition, FinCEN's travel rule requires the originator's bank or transmitter's financial institution to include all information required under the BSA recordkeeping rule in a payment or transmittal order sent by the bank or non-bank financial institution to another bank or non-bank financial institution in the payment chain. The requirement to collect, retain, and transmit information on funds transfers and transmittals of funds applies to funds transfers and transmittals of funds in the amounts of \$3000 or more.

Burden to Financial Institutions

The Agencies have posed questions relating to financial institutions' practices and procedures for the collection of funds transfers and transmittals of funds information as it relates to both the origination and receipt of the funds transfers and transmittals of funds transaction. WBA believes the lowering or eliminating of the funds transfers and funds transmittals threshold will not cause a reduction or elimination of bank services. However, this change to the current threshold will still impact financial institutions as such change will broaden the number of transactions that will be subject to the requirements already outlined above.

For many financial institutions, this impact will undoubtedly cause an increase in personnel costs as either new hires will be necessary in order to monitor the increased recordkeeping requirements; or alternatively, longer hours will be

required for those employees charged with potentially monitoring and reporting every funds transfer and transmittals of funds originated or received by the financial institution. This increased cost will ultimately be passed onto the financial institutions' customers using these transfer services, the majority of whom are established legitimate customers simply using the funds transfers and transmittals of funds services because they are safe, accurate and a timely methods of transferring funds.

WBA is also concerned that lowering or eliminating the current threshold will cause a flood of unnecessary reporting and will bury the Agencies with unnecessary recordkeeping reports. This unnecessary reporting will only hinder the Agencies' abilities to ferret out those transactions that pose a legitimate concern. Today's technology and customer sophistication have resulted in an increase in legitimate funds transfers and transmittals of funds requests. To require bank and non-bank financial institutions to report on each of these funds transfers and transmittals of funds will create voluminous reporting. This anticipated mountain of reporting created by lowering or eliminating the threshold will only slow the Agencies' abilities to identify illegal activity from those that are legitimate transfer requests.

The BSA already offers several vehicles to assist law enforcement in their pursuit of criminals, such as suspicious activity monitoring and currency transaction reporting. WBA recommends the Agencies take into consideration the existing BSA requirements and review how effectively law enforcement is utilizing the currently reported information before simply concluding that lowering or eliminating the funds transfers and transmittals of funds threshold will help achieve the goal of promoting the disruption of illegal activity.

Summary

WBA opposes additional funds transfers or funds transmittals reporting requirements that will result from lowering or eliminating the funds transfers and transmittals of funds threshold. Instead WBA recommends the Agencies review how law enforcement can more effectively utilize the information that is already being collected. If the Agencies move forward in their rulemaking procedures, WBA encourages the Agencies to gather information from law enforcement to clearly weigh the potential benefit to law enforcement against the compliance burden on financial institutions.

WBA would like to thank its member institutions for assistance in data collection for this ANPR. Once again, WBA appreciates the opportunity to comment on the ANPR.

Sincerely,

Kristine Clevon
Assistant Vice President Legal