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President and CEO

April 18, 2006

Financial Crimes Enforcement Network  
Post Office Box 39  
Vienna, VA 22183  
Attention: 1506-0001

Communications Division  
Office of the Comptroller of the Currency  
Public Information Room  
Mailstop 1-5  
Attention: 1557-0180  
250 E Street, SW  
Washington, DC 20219

Information Collection Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552

Jennifer J. Johnson, Secretary  
Board of Governors of the  
Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

Steve Hanft, Clearance Officer  
Legal Division MB-3064  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429

Clearance Officer: Mr. Neil M. McNamara  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314-3428

Re: Revisions to the Suspicious Activity Report (SAR) Used by Depository Institutions

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)<sup>1</sup> appreciates the opportunity to comment on proposed changes to the Suspicious Activity Report (SAR)

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<sup>1</sup> The Independent Community Bankers of America represents the largest constituency of community banks of all sizes and charter types in the nation, and is dedicated exclusively to representing the interests of the community banking industry. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.

With nearly 5,000 members, representing more than 18,000 locations nationwide and employing over 265,000 Americans, ICBA members hold more than \$876 billion in assets \$692 billion in deposits, and more than \$589 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at [www.icba.org](http://www.icba.org).

form used by depository institutions. The changes are being proposed by the federal bank regulators and Treasury's Financial Crimes Enforcement Network (FinCEN) to allow joint filing by financial institutions, make the form consistent with the SAR forms used by other financial institutions, clarify what information should be reported and increase the form's usefulness for law enforcement.

### ***Overview of ICBA Comments***

Generally, ICBA supports the proposed changes. ICBA believes that the primary focus of the entire Bank Secrecy Act (BSA) reporting regime should be truly suspicious activities and not routine transactions that provide little useful information for law enforcement but that require substantial compliance resources – both in time and money – for banks to produce. ICBA believes that the proposed revisions are a step in the right direction for helping to reduce regulatory burden. The additional references being proposed for the form will be useful for community banks that file few SARs annually. ICBA encourages FinCEN to continue its work on developing a safe, secure and easily used electronic filing mechanism to report suspicious activities.

### ***Comments on Specific Changes***

#### ***Updated Report and Joint Filing***

The first two changes would add boxes to indicate whether the bank is filing an updated report or whether the report is being filed jointly with another financial institution. ICBA finds it will be helpful to easily indicate that the form is an updated report. That will save time and clarify if the information updates previously filed information. ICBA believes the change will also help FinCEN compile SAR information and help law enforcement analyze the data.

ICBA agrees it will be useful to allow financial institutions to jointly report suspicious activities and supports this revision. While this change will most likely benefit larger holding companies with multiple financial institution subsidiaries, ICBA believes joint reporting may benefit community banks in some instances as well. ICBA also recommends the rules on reporting suspicious activities clearly state that financial institutions filing jointly are protected under the safe harbor provisions.

#### ***Subject Information***

Information about the subject of the SAR would be relocated from Part II to Part I. Other proposed revisions to this section would indicate whether the report involves multiple subjects and whether the subject is “also known as” or “doing business as” to help standardize information.

Generally, ICBA believes it helpful to list the subject information on the SAR first. This is consistent with the format for reporting large currency transactions and other reporting that provides subject information first. More important, it would give added prominence to a possible suspect or suspects.

ICBA also finds it useful to allow the bank to indicate whether multiple suspects are involved. This will help provide better understanding of the situation, especially in instances where fraud rings may be involved. In addition, allowing banks to report multiple suspects on a single SAR will help reduce regulatory burden by allowing banks to file a single form instead of multiple forms. ICBA also finds that standardizing the format for reporting information on “also known as” and “doing business as” is helpful.

### ***Suspicious Activity Information***

Changes to the suspicious activity information reported would increase the total dollar amount from ten digits to 12 (the instructions would be revised to clarify that all figures should be reported in dollars); move law enforcement contact information and information about whether the suspicious activity might affect the bank’s financial soundness to the narrative section; and delete information about the bank’s bonding company.

ICBA generally agrees these changes to the form are appropriate, especially clarifying that the figures should be reported in dollars to avoid confusion when foreign currencies are involved. However, it is also important to recognize that moving information to the narrative section instead of having a check box may mean the information is less likely to be included and may not be provided in the same way by different reporting institutions.

### ***Reporting Financial Institution Information***

The information about the bank filing the report would be moved from Part I to Part III. This section collects information about the bank, the branch where the activity took place, the affected account number(s) (if any), and whether accounts have been closed due to the suspicious activity.

ICBA believes that moving the information about the bank filing the report after the subject and the suspicious activity is logical since it more important to focus on the suspect and the suspicious activity. It will also make the SAR consistent with other reporting forms. ICBA also agrees that it will be useful to allow the reporting bank to provide information about whether the bank has closed an account due to suspicious activity since that will offer data about whether further exposure or loss may be expected, whether additional SARs are likely to be filed, and should be useful for law enforcement purposes.

Other proposed changes to this section would add a new check box to indicate whether the report is being filed jointly with another financial institution; would add a new item to allow (but not require) banks to report their internal control number for the report; add three new boxes to allow the reporting institution to indicate the IRS, SEC and CFTC as primary regulators when a joint report is filed; would relocate relationship information on the subject to the bank from the subject information section to this section; and allow additional space for up to four branch locations to be listed (if more than four branches are involved, they would be listed in the narrative section).

*Internal Control Numbers.* ICBA finds it will be helpful to revise the form to provide space so that banks *may* report their internal control numbers. This can be useful for tracking purposes, especially for community banks that may not file SARs electronically. It should also facilitate retrieval of information associated with the SAR. However, since not all banks use internal control numbers, this should definitely be optional.

*Relationship to the Reporting Institution.* ICBA does not have a position on whether it is preferable to include the information about the relationship, if any, of the subject of a SAR with the section on the reporting institution or with information about the suspect. Logical arguments can be made for placing the information in either location, and ICBA supports the revision if it will assist law enforcement.

*Branch Locations.* ICBA finds it will be helpful to provide space to list up to four branch locations where suspicious activity may have taken place, although the change is more likely to benefit larger institutions with extensive branch networks.

### ***Contact for Assistance***

Instead of asking for a contact name and number, the form would be revised so that a bank would provide information about a bank office to contact for additional information. While this would still furnish contact information for law enforcement agencies, it would protect the identity of bank employees.

This is a step ICBA fully supports and has long advocated. It is important to provide protection for individual bank employees as much as possible. Second, the employee filing the report may not be in the best position to respond to questions about the transaction in question. And, since the employee filing the report may not be available when law enforcement contacts the bank to follow up on a SAR, listing a contact office may actually facilitate law enforcement investigation. Where more than one bank employee may be involved with preparing the SAR, listing an office to contact instead of a specific employee name may also help the investigation.

### ***Suspicious Activity Narrative***

This section of the SAR form is considered the most informative section. Therefore, the instructions would be revised to offer banks additional guidance on how to complete this section. For example, a new item would be added instructing the bank to “describe the conduct that raised suspicion, why it was suspicious and the date discovered.”

ICBA agrees that additional guidance for completing the narrative portion of the SAR is both appropriate and helpful, especially for community banks that file relatively few SARs. ICBA finds it especially helpful to include guidance requesting detail on what makes a particular transaction suspicious. Overall, the proposed revisions will offer useful information for completing the SAR form and will encourage more detailed information. This will be useful for the bank, regulators and law enforcement agencies.

### ***Regulatory Burden***

The agencies estimate that the revised form will take approximately 60 minutes to complete. While it depends on the nature of the activity involved – some suspicious activities may require more time than others to investigate – ICBA does not disagree that it requires 60 minutes on average to complete the SAR.

### ***Additional Changes to the Instructions***

- The prohibition against disclosing the fact that a SAR has been filed would be given new prominence
- Banks would be encouraged to file the form electronically
- Certain items on the form would be marked with an asterisk, and the instructions would provide that those must be completed or, if not known, marked “none,” “not applicable” or “unknown”
- Banks would be encouraged to provide as much information as possible
- A new item would provide that the form should be typed or completed in block letters
- New instructions would be added for reporting more than one subject
- New items would outline the format for reporting dates, entering an individual’s name, and encouraging banks to furnish all identifying numbers (e.g., SSN, EIN, etc.)
- A new item would provide that street addresses are required for individuals and should be provided for businesses
- New contact information would be added to the form for reaching FinCEN with any questions about completing the form
- Additional information would be added for several items to give guidance on how that item should be completed

Overall, ICBA finds these additional changes to the instructions useful. Since community banks file relatively few SARs annually, providing the guidance with the form is helpful and will help ensure information is properly completed. The proposed changes should help streamline the process, allow FinCEN to compile data in a reasonable and systematic order, and provide the bank the opportunity to fully describe the activity and the reason it is considered suspicious. In addition, the changes will help focus the report on the suspicious nature of the activity in question – the most critical element.

### ***Filing Instructions***

*Electronic Filing.* Although community banks file relatively few SARs annually, ICBA believes that expanded electronic filing can help reduce burden and encourages FinCEN to continue to develop and expand the use of *BSA Direct*. However, it is important that electronic filing mechanisms include appropriate safeguards to ensure all data reported electronically is properly safeguarded.

One of the advantages to electronic filing, if the software is configured properly, is that it can identify potential problems or errors before the form is filed, allowing the reporting bank to make corrections prior to filing. The banking agencies are using this approach in a number of areas, such as call report data and HMDA data, and community

banks find it helpful. Perhaps more important, electronic filing would allow FinCEN and law enforcement to make better and more efficient use of the information reported by expediting compilation and analysis of the data. However, until *BSA Direct* is fully operational and easily accessible by all financial institutions, ICBA believes it is important for community banks to continue to have the option of manual filing, since it is not cost effective for smaller community banks to purchase and install software reporting systems for a relatively small number of SARs.

*Unknown Information.* ICBA agrees it will be helpful to add guidance on when “none,” “not applicable” or “unknown” should be used for completing a SAR. Leaving a blank space when information is unknown or unavailable may cause the form to be rejected when filed, causing potential confusion and delays in processing the information. The guidance will also help distinguish instances when the bank does not have information from situations where information was inadvertently omitted.

*Reporting Format.* ICBA agrees that it will be helpful to offer additional guidance for the format for reporting dates, an individual’s name, address, and so forth. This will ensure consistency and should facilitate processing of the data on the form by FinCEN.

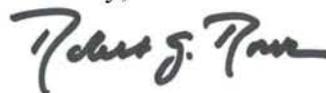
*Contact Information.* Finally, providing contact information for FinCEN on the SAR form will be useful for questions that may arise. ICBA believes this will be especially helpful for community banks that file relatively few SARs and may be less familiar with the process. Moreover, providing the contact information should prove useful to FinCEN and law enforcement agencies, since it will allow questions about completing the form to be answered appropriately, ensuring the forms are completed accurately before they are filed.

### ***Summary***

ICBA commends the agencies for continuing their efforts to reduce the burdens and make changes that will focus on truly suspicious activities instead of routine transactions that have little use for law enforcement but that are costly to produce and analyze. ICBA believes that the changes proposed for the SAR form used by depository institutions is an appropriate step in that direction, and looks forward to continuing to work with FinCEN and the banking agencies on finding additional ways to improve the entire Bank Secrecy Act (BSA) reporting process.

Thank you for the opportunity comment. If you have any questions or would like additional information, please contact me by phone at 202-659-8111 or by e-mail at [robert.rowe@icba.org](mailto:robert.rowe@icba.org).

Sincerely,



Robert G. Rowe, III  
Regulatory Counsel