



April 18, 2006

Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183
Attention: 1506-0001, Revised Suspicious
Activity Report by Depository Institutions

Office of the Comptroller of the Currency
Public Information Room
Mailstop 1-5, Attention 1557-0180
250 E Street, S.W.
Washington D.C. 20219

Mr. Steve Hanft
Clearance Officer
Legal Division MB-3064
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve
System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Information Collection Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552

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

Re: Agency Information Collection Activities; Proposed Collection; Comment
Request; Suspicious Activity Report by Depository Institutions
71 FR 8640 (February 17, 2006)

Dear Sir or Madam:

America's Community Bankers (ACB)¹ is pleased to comment on the proposed revisions to the Suspicious Activity Report (SAR) filed by depository institutions.² Among other things, the revised form would provide additional guidance and instruction for completing the SAR. Other revisions are designed to facilitate joint SAR filing and protect the names of bank employees that are designated SAR contact persons for their institutions.

¹ America's Community Bankers is the member driven national trade association representing community banks that pursue progressive, entrepreneurial and service-oriented strategies to benefit their customers and communities. To learn more about ACB, visit www.AmericasCommunityBankers.com.

² 71 Fed. Reg. 8640 (February 17, 2006).

ACB Position

ACB generally supports the proposed changes to the SAR form. The revisions would provide needed guidance, reduce duplicative SARs by facilitating joint filing, and protect bank employees that prepare and file SARs. These are small, but meaningful changes.

Community banks recognize that suspicious activity reporting plays an important role in helping law enforcement protect our country, our communities, and our financial system. Nevertheless, we believe the SAR form should be further amended to ease regulatory burden on depository institutions and improve the overall quality of SAR filings. We specifically suggest that FinCEN and the agencies:

- Re-evaluate the structure of Part V of the SAR form, Suspicious Activity Information – Narrative.
- Clarify the circumstances under which new data Item 1a –“check this box to indicate if this is an updated report” – should be marked by the reporting institution.
- Draft a separate set of instructions for joint SAR filing, rather than interspersing the joint filing requirements throughout the existing directions.

SAR Narrative

FinCEN and law enforcement repeatedly state that the Narrative is the most important part of the suspicious activity report. Yet, community banks report that the SAR Narrative is burdensome and time consuming to complete. Many institutions have difficulty determining what information to include in the Narrative and translating that information into narrative form. This process can be very time consuming and has become more burdensome in recent years due to increased anti-money laundering compliance demands. Further, there is an industry perception (rightly or wrongly) that most SARs are not reviewed by law enforcement.

Part V of the revised SAR would provide a more specific list of information that institutions should include in the SAR Narrative. ACB believes that the more specific list of information provided in revised Part V is a step toward remedying the problem of incomplete and unhelpful SAR Narratives. Because community bankers are not law enforcement professionals, the instructions to Part V should specify precisely what information regarding suspicious activity or suspicious transactions would be of interest to the law enforcement community. Therefore, we urge FinCEN to include in Part V any additional information or checklists that would help institutions complete Part V of the SAR form.

We also urge FinCEN to reconsider the form of the information it seeks to obtain in Part V. Some community banks have suggested that FinCEN provide a template for the SAR Narrative. Others have suggested a form-like short answer structure that poses specific questions to guide institutions in compiling, organizing, and describing the suspicious

activity or transactions. Such a template or short answer format should be included within Part V and not in separate SAR guidance.

This approach would provide much needed guidance and structure while avoiding a rigid check box or fill-in-the-blank system that provides limited information. It would also make completion of the SAR Narrative more manageable for community banks and would likely improve the quality of SAR filing.

Updated SARs

New data Item 1a in the revised SAR form would allow institutions to check a box when filing an updated report on a previously filed SAR. As drafted, it is unclear whether an institution should check the box when 1) adding additional information to a previously filed report or 2) filing the SAR to report continuing suspicious activity by a person or entity on which a SAR was previously filed. Therefore, ACB requests that the SAR instructions be amended to clarify when Item 1a should be checked.

Joint Filing

The SAR report is being revised to facilitate joint filing of Suspicious Activity Reports by depository institutions. Check boxes would be added to indicate whether two or more institutions are jointly filing a single SAR. ACB believes that joint filing will provide added benefit to institutions that elect to share information relating to money laundering or terrorism pursuant to section 314(b) of the USA Patriot Act.

ACB urges FinCEN to add a separate section to the SAR Instructions to explain the rules and restrictions regarding joint filing. This set of instructions should address:

- When joint filing is permissible and when it is prohibited;
- Information sharing under section 314(b) of the USA Patriot Act; and
- Recordkeeping obligations of institutions that file joint SARs.

Contact Information

Part IV of the proposed SAR form would delete fields requiring the name and title of the filing institution's SAR contact person. Instead, filing institutions would be required to identify a designated contact office. This is an important change.

SARs are confidential. The disclosure of information contained in a SAR, and even the fact that a SAR has been filed, is prohibited. Yet, these documents have been leaked to the news media and Congressional staff in recent years. Because SARs contain sensitive information regarding potentially criminal behavior, the banking industry has become concerned about the personal safety of bank employees identified in suspicious activity reports. As a result, ACB strongly supports eliminating the name of bank contact personnel from the SAR form.

Conclusion

Thank you for the opportunity to comment on this important matter. ACB is committed to easing regulatory burden for community banks while ensuring that law enforcement has appropriate and useful tools to protect our financial system from financial crime and terrorist finance. Should you have any questions, please contact the undersigned at 202-857-3187 or kshonk@acbankers.org.

Sincerely,

A handwritten signature in cursive script that reads "Krista Shonk".

Krista J. Shonk
Regulatory Counsel