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April 18, 2006

Via Email

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

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

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

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

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

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

Re: Revised Suspicious Activity Report by Depository Institutions  
71 *Federal Register* 8640 (February 17, 2006)

Ladies and Gentlemen:

The American Bankers Association (ABA) appreciates the opportunity to comment on the proposed revised SAR-DI form. ABA generally considers the modifications to be helpful improvements that warrant some clarification. However, we do suggest an alternative format for collecting reporter identity that better accommodates holding company situations and enterprise-wide reporting. In addition, we caution that the transition to the new form account for the fact that banks have adopted a variety of internal controls and methods to initiate, investigate, evaluate and file SARs, and these will need to be adjusted over time to integrate with the new reporting elements and format. Accordingly, a sufficient transition period and appropriate supervisory flexibility will be necessary as the changes are implemented. Finally, ABA recommends that any revised SAR-DI be made available electronically in beta form on BSA Direct to permit testing and evaluating whether the electronic version and its instructions are comprehensive before finalizing the new SAR-DI format.

The American Bankers Association, on behalf of the more than two

million men and women who work in the nation's banks, brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership--which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks--makes ABA the largest banking trade association in the country.

### Design Suggestion to Cover Enterprise-Wide Reporting

One of the more significant changes in the form is the capacity to conduct a joint filing. However, it is unclear from the instructions how this would apply when operating with an enterprise-wide SAR reporting process.<sup>1</sup> For instance, take a holding company that files on behalf of its separately chartered depository institutions (DI). In such a case, the instructions appear to direct that the filing institution would be the holding company and that the DI where the reported activity occurred would be a joint filer. Unfortunately, subject relation, account information or branch information (items 34-40 et seq.) are unlikely to have much relevance to the holding company filer versus its affiliated joint filing DI. Despite this discontinuity, the filing holding company would be required to use the “original page” of Part III and the affiliated DI where the activity occurs would be relegated to a supplemental Part III “page.”

ABA believes that enterprise-wide SAR filing is a growing trend among our membership. For this reason, we suggest that the SAR form be designed to recognize this practice better. One possible alternative would be to have Part III cover the DI involved in the reported activity and then to have a subsection of Part III (or a new Part IV) that would contain the identifying information (items 26-33) of the actual filing institution—e.g., holding company or corporate affiliate. This may be designed into the form by reducing the number of branch office blocks and reducing the amount of space for the special note and instructions at the bottom of page 2. Applying this alternative would also allow the proposed Part IV – Contact for Assistance, to be completed only for the actual filing entity that coordinated the filing and is presumably responsible for accessing relevant back-up information.

There may be other alternative formats to accomplish this clarification. To assist in evaluating the available design and formatting options, ABA recommends that FinCEN make use of the Bank Secrecy Act Advisory Group's (BSAAG) Subcommittee on SARs.

### Form and Instruction Revisions

ABA suggests a few additional clarifications of the form and instructions:

- In Part III and associated instructions, the blocks for “branch offices” should be re-labeled to “offices” so that they more inclusively describe the locations to which suspicious activity can be assigned. ID theft and computer intrusion are

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<sup>1</sup> We address the joint filer option within the context of affiliated reporters. It is unclear to many ABA members that joint filing would be available to non-affiliated reporters, since there seems to be no ability for them to file jointly without sharing the fact that each is filing a SAR. However, ABA invites clarification of the joint filer option as applied to non-affiliated reporters whether or not creating that capability is FinCEN's intent.

often more realistically assigned to back office locations than to a particular branch.

- In Part V instruction r, correcting or amending a report is covered, but no mention is made whether this applies to updated reports.
- In Part V, under the block of alphabetized instructions, a sentence reads, “Information already provided in earlier parts of this form need not necessarily (sic) be repeated if the meaning is clear.” We recommend striking “necessarily” as confusing.

### Transition Factors

Each institution adopts a process for preparing SAR forms to assure consistent compliance. In addition to re-training staff on new form elements and instructions, a bank must modify its policies or practices to assure that the new forms comport with institution specific procedures. In many cases—especially where enterprise-wide SAR filing occurs—the institution adopts an intermediate form or data collection format that ultimately interfaces with the finalized SAR being filed. Changes to the SAR-DI form will consequently require changes to the institution specific intermediate reporting form or suspicious activity database. These internal changes will require proprietary and/or vendor software system changes that must be budgeted and scheduled in an institution’s IT program. Accordingly, ABA recommends that sufficient transition time be provided when the SAR-DI is finally adopted. Discussions about what is sufficient could be conducted with the members of the BSAAG Subcommittee on SARs.

### Electronic Filing and the New SAR-DI

The SAR-DI is proposed in a standard Federal Register publication and described in terms of paper filing. We note, however, that an increasing number of institutions file SARs electronically. ABA encourages FinCEN to post the SAR-DI revisions in beta form designed to be accessed electronically so that they can be tested and evaluated in the environment that the agency is promoting as the preferred filing regime. Until the revised SAR-DI is online, we will only be guessing at the functionality of the new form in an electronic medium and the clarity of its instructions in that environment. As reporting changes from paper-based to electronic, we believe the process for soliciting comments on such data collection formats should keep up with the times and should incorporate hands-on testing in the online environment as part of preferred administrative procedure. This would enable both user interface and agency feasibility to be evaluated.

### Conclusion

In summary, ABA suggests some clarifications to the SAR-DI form as proposed. We also believe that the trend to enterprise-wide SAR filing merits adopting an alternative format for collecting reporter identity information. In addition, a sufficient transition period and appropriate supervisory flexibility are warranted to accommodate the time necessary to implement changes to bank internal controls and supporting systems. Finally, ABA recommends that the administrative comment

process include testing and evaluating the new SAR-DI format in an electronic, online filing version before it is finalized.

ABA and its members stand ready to contribute to further discussions about the SAR-DI revisions in their role as representatives to the Bank Secrecy Act Advisory Group and through other means as appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard R. Riese". The signature is fluid and cursive, with a large initial "R" and "R".

Richard R. Riese  
Director, Center for Regulatory Compliance