Testimony of
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on
the Bank Secrecy Act and Bank Reporting Requirements
Joint Hearing before
the Financial Institutions and Consumer Credit Subcommittee
and
the General Oversight and Investigations Subcommittee
Committee on Banking and Financial Services
U.S. House of Representastives
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Thank you, Chairwoman Roukema, Chairman King, Ranking Members Vento and Sanders, and members of the Subcommittees. I appreciate the opportunity to testify on behalf of the Federal Deposit Insurance Corporation on the Bank Secrecy Act and the bank reporting requirements. The FDIC insures the nation's 10,483 commercial banks and savings institutions and is the primary federal supervisor of 5,853 state-chartered banks that are not members of the Federal Reserve System. My statement first provides some background on the Bank Secrecy Act itself, and the FDIC's role in its enforcement. Next, I will address the question of reporting by the banking industry.

The FDIC is well aware of the sometimes competing public policy issues raised between financial privacy and combating financial crimes by statutory requirements that the banking system report suspicious activity. Our recent experience with the "Know Your Customer" proposal was strong evidence that the American public values its financial privacy. The public is rightfully skeptical of the government employing efforts to attack the problem of illegal financial activity through rules that may infringe upon the privacy of all individuals. We confirmed through the "Know Your Customer" rulemaking process that the public's relationship with financial institutions is based on trust, and the government must be cautious about adopting rules that might upset that trust.

The integrity of the nation's banking system is also rooted in confidence. Confidence between a financial institution and its customers is what enables banks and other financial institutions to attract and retain legitimate funds from legitimate customers. Illegal activities, such as money laundering, fraud, and other transactions designed to assist criminals in illegal ventures pose a serious threat to the integrity of financial institutions and, therefore, the public's confidence in the banking system. Maintaining confidence in the nation's banking system is the mission of the FDIC. Highly publicized cases involving money laundering demonstrate the importance of federal supervision and bank vigilance in this area. While it is impossible to identify every transaction at an institution that is potentially illegal or involves illegally obtained money, financial

institutions must take reasonable measures to identify such transactions in order to ensure their own safe and sound operations.

In October 1970, Congress enacted the statute commonly known as the Bank Secrecy Act, or BSA. The BSA authorized the Secretary of the Treasury to require banks to report cash transactions over $10,000 to the Department of the Treasury. In addition, the BSA requires financial institutions to keep records that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement programs and compliance procedures to counter money laundering. Vigorous enforcement of the BSA requirements beginning in the early 1980s, coupled with the criminalization of money laundering by the Money Laundering Control Act of 1986, have resulted in the filing of a large number of currency transaction reports, or CTRs. In 1992, the Annunzio-Wylie Money Laundering Act broadened the reporting requirements by authorizing the Secretary of the Treasury to require any financial institution, and its officers, directors, employees and agents, to report any suspicious transaction relevant to a possible violation of law or regulation. As a result of the legislation, the Treasury Department issued regulations requiring financial institutions to file Suspicious Activity Reports, or SARs. Among other things, the regulations eliminated the existing requirement to file CTRs alleging suspicious activity. One purpose of the change was to draw a distinction between routine large cash transactions and those that are considered suspicious. This increased the amount of useful information available to investigators in a reasonable period of time and effectively separated the reporting of apparent illegal activity from that associated with the normal conduct of a commercial business enterprise.

Pursuant to authority in the Federal Deposit Insurance Act and the BSA as amended by the Annunzio-Wyle Money Laundering Act, the FDIC, along with the other federal financial institution regulatory agencies, adopted regulations requiring banks and savings institutions to establish and maintain procedures to monitor their compliance with the BSA. Institutions are required to establish a compliance program that will provide for, at a minimum a system of internal controls to assure ongoing compliance, independent testing for compliance, the designation of an individual to be responsible for coordinating and monitoring day-to-day compliance, and training for appropriate personnel. Failure to comply with the regulations may result in a supervisory action against the institution.

Interagency examination procedures were developed for examiners to determine bank compliance. At each safety and soundness examination, FDIC examiners review a bank's BSA program and compliance procedures. Based on our experience with state-chartered non member banks, compliance with the BSA has substantially improved in the last ten years. Although some isolated violations have been detected, most appear to be technical in nature. Many of these violations appear to result from a misunderstanding of the CTR reporting exemption rules. Recently introduced amendments to these rules further simplify the exemption process for the banks and should eliminate a number of the technical violations of the BSA that are currently noted by examiners.

We do not believe that filing CTRs has created an undue burden on financial institutions. Most computer systems readily identify transactions that may be subject to the reporting requirements, and many systems automatically generate CTRs that are ready for filing. All those institutions have to do is review the CTRs generated by the system to determine which of the reports require filing. Banks also have the option of reducing paperwork by filing magnetically or by following exemption procedures to eliminate filings on qualified businesses and government agencies that routinely deal in large volumes of cash.

The BSA is a vital component of the United States' anti-money laundering efforts. The statute and its implementing regulations work because of the necessary cooperation between the government and financial institutions. It would be almost impossible to construct an effective system for detecting money laundering and preventing criminals from using the financial system without participation by financial institutions. For over a decade, institutions have filed reports that have been effective tools in the detection, investigation and prosecution of illegal activity that can damage communities, ruin lives, and cause considerable financial losses to institutions. While the BSA has not completely eradicated money laundering or other financial crimes, it has been a deterrent to large-scale money laundering activity in covered financial institutions.

Money launderers are well aware of the BSA and are constantly seeking ways to avoid its reporting requirements. For example, breaking large currency transactions into several smaller transactions to avoid CTR's, commonly known as "structuring", was successful for several years. However, since financial institutions have developed systems to detect this type of activity and promptly report it on SARs, the effectiveness of "structuring" as a means of hiding illegal cash has been greatly diminished.

One recent success story for CTRs and SARs was the arrest and prosecution of about 20 people in connection with a 1997 robbery of an armored car company in North Carolina, where the perpetrators netted approximately $17 million in cash. A number of banks reported unusual and suspicious cash transactions that helped lead law enforcement authorities to several suspects who, in turn, implicated others involved in the robbery and laundering of the money.

In summary, the FDIC strongly supports the BSA and other federal anti-money laundering efforts. The integrity and reputation of the United States financial sector depends on the continuing cooperation among financial institutions, law enforcement agencies and the federal financial institution regulators. Over the past 15 years, these organizations have formed a vital partnership to fight financial crime. We must continue to be vigilant and to balance the legitimate concerns of institutions, the privacy rights of law abiding citizens with the needs of the government to ensure continued public confidence in our nation's banks.

Again, I appreciate the opportunity to present the FDIC's views on these issues and would be happy to answer any questions you might have.

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