



FINANCIAL SERVICE CENTERS OF AMERICA, INC.
A NATIONAL TRADE ASSOCIATION

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Via Email (regcomments@fincen.gov)

James H. Freis, Jr., Director
Regulatory Policy and Programs Division
Financial Crimes Enforcement Network
Department of the Treasury
P.O. Box 39
Vienna, Virginia 22183

Attention: BSA Required Electronic Filing

Dear Director Freis:

These comments are submitted on behalf of Financial Service Centers of America (FiSCA), the national trade association representing over 6,500 neighborhood financial service providers throughout the United States. Since its inception, FiSCA has been the leading voice on legislative, regulatory and business issues that affect its members and the rights of U.S. consumers to access basic financial services.

FiSCA's members, which we describe as "financial service centers" (FSCs), provide non-depository financial services including check cashing, remittance services (as agents), short-term loan products, prepaid access products, and many others. We serve millions of customers, both banked and un-banked, who use us for the advantages that we provide: convenient locations, friendly service and access to instant liquidity. We serve people from all walks of life, including urban communities and the under-banked, groups that various financial regulatory agencies have stressed as being underserved by more traditional institutions. Multiple independent studies have underscored that FSCs serve customer needs well in providing critical financial services to the local communities they serve.

FSCs and BSA Reporting Requirements

By virtue of the various financial services they provide, FiSCA's members are considered to be "money services businesses" (MSBs) under applicable Bank Secrecy Act (BSA) regulations. As such, FiSCA's members are required to file Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs) on all qualifying transactions, as well as maintain transaction records with respect to certain types of customer transactions. Considering the large number of MSBs operating in the U.S. as compared with the relatively small number of FinCEN enforcement actions involving MSBs, we believe the industry has a strong BSA compliance record.

General Comments to Mandatory E-Filing Requirement

As a general policy, FiSCA supports electronic filing of BSA reports because of the clear benefits to industry and law enforcement. We agree that that electronic filing can bring cost savings and increased efficiencies to MSBs, and improve BSA reporting capabilities. Moreover, the benefits to law enforcement are clear; quick access to reported SAR and CTR information is critically important in ongoing efforts to identify and thwart money laundering and financial crime.

Notwithstanding the clear benefits of FinCEN's E-Filing system, we are concerned that a segment of the MSB industry may have difficulty in adapting to mandatory electronic filing by the proposed June 30, 2012 deadline. In this regard, we would suggest that FinCEN continue to work to educate all industry sectors. We recommend that FinCEN provide additional E-Filing webinars and notices to industry. Additionally, to the extent there may be language barriers, we would suggest that FinCEN issue notices and technical information in Spanish as well as English.

FiSCA sought the input of its association membership to gauge reaction to FinCEN's proposal for mandatory electronic filing. Responses were received from a broad spectrum of MSB types, including larger multi-state organizations, down to smaller single branch and "mom and pop" operations. Specifically, FiSCA sought membership input in several areas, including numbers of MSBs currently electronically filing, general internet access to enable electronic filing, whether members had experienced prior problems with FinCEN's E-Filing system, and anticipated impact that mandatory electronic filing may have on business operations.

FiSCA membership response to electronic filing was overwhelmingly positive. With few exceptions, members indicated that they had experienced few problems with FinCEN's current E-Filing system. Additionally, virtually all responding members indicated that they did not anticipate significant difficulties with a mandatory electronic filing requirement.

Some representative comments received included the following:

"We use the E-Filing system and love it. Easy to create a template and far less paper to deal with."

"I have found that electronic filing is much more efficient and convenient for us than paper filing. We have only filed one paper form in the last few years. It was the result of an IRS audit in which we needed to amend a CTR. The agent [conducting the examination] would not allow us to file it electronically, thus a paper form was filed."

“Our company currently e-files all CTRs and SARs, and we do have internet/computer access which allows us to do so. To date, I have not experienced any problems in using FinCEN’s e-filing system. I do not anticipate that mandatory e-filing will impact our operations at all, other than to reduce the turnaround time on whether a CTR/SAR has been accepted.”

“We have been using the electronic filing platform for CTR/SAR filing for about 18 months. We like the overall result (confirmation of filing, confirmation of acknowledgment) but the system is not very user friendly. We find the process tedious but the end result very beneficial. It was especially helpful during a Title 31 exam last winter where the examiner alleged we had missed CTR filings and we were able to produce our electronic acknowledgement [of receipt].”

“No problems. The system is easy to use. It is far superior to manual reporting and you can save everything as a PDF file. Also, there is no certified mail cost to submit reports.”

“The only minor problem we have had is that if you mistakenly file a CTR twice, you cannot ‘undo’ in on the system. You have to go through a somewhat cumbersome process of submitting written evidence and request FinCEN to ‘undo’ it. Of course, the easy way to avoid this is to not make the mistake in the first place.”

One FiSCA member expressed concerns regarding customer privacy in that their “customers do not like their information such as Social Security number, address, etc., posted via the internet due to possible hackers or information getting into the wrong hands.”

A number of FiSCA members expressed concerns that mandatory electronic filing would impact operations in regards to lost efficiencies and increased costs associated with implementing point-of-sale (POS) systems that are compatible with FinCEN’s E-Filing system. As set forth in greater detail below, industry consultants and systems programmers likewise expressed concerns with respect to technical difficulties in adapting existing systems.

State Duplicate Filing Requirements

Although FiSCA supports electronic filing, we are concerned that a number of state regulatory authorities continue to require duplicate CTR and SAR filings by MSBs, yet such states do not accept electronic filings. In other words, in addition to mandatory electronic filings required by FinCEN, MSBs in certain states (e.g., New York and New Jersey) will still be required to file duplicate paper BSA reports. MSBs subject to these state filing requirements will effectively be required to maintain separate processes for mandatory electronic filing and manual filing of BSA reports.

It is widely known that through Project Gateway, FinCEN currently works with law enforcement officials in each state so that they have on-line access to FinCEN's databases, including BSA report information. The technology available through Gateway gives each state electronic access directly to financial information generated from filed BSA reports. As such, duplicate filing of paper BSA reports with state regulators and law enforcement authorities is unnecessary, redundant and costly to industry.

Another problem exists in that MSBs preferring to batch file must in some states still generate and file a paper CTR or SAR form. Inasmuch as the proposed batch file CTR and SAR forms are different from existing paper forms, MSBs filing at the state level will in effect be filing different forms with state authorities.

In sum, as part of its effort to transition industry to a mandatory electronic filing requirement, we believe that FinCEN should make efforts to reach out to state authorities to educate them on the benefits of the Project Gateway system and to urge the elimination of duplicate paper BSA reporting requirements at the state level.

Technical Issues with Current E-Filing Platform

Consultants to the industry have expressed that there have been some technical problems experienced with the current discrete filing and electronic signature functions. More specifically, there have been instances where after a CTR or SAR has been prepared, electronically “signed” and submitted, when a copy of the report is subsequently accessed on the filer’s system the report will indicate that “this document is unsigned.” This problem appears to be a software issue. It has, however, created issues during Title 31 examinations because it appears to indicate that the filer had not properly signed and filed the BSA reports in question, when in fact the reports were correctly filed.

We suggest that this and any similar technical issues should be addressed before a mandatory electronic filing requirement is imposed.

Technical Issues with Batch Filing Function

FinCEN’s BSA E-Filing system supports discrete, computer to computer and batch filing functions. Based on our discussions with industry consultants and systems programmers, it appears that there are technical challenges in adapting existing point-of-sale systems to FinCEN’s batch filing function.

More specifically, although FinCEN offered a recent webinar to instruct financial institutions on the process to register for and utilize the electronic filing system, the final specifications for the batch filing function have not yet been made available to industry. We have been informed that FinCEN will make the new specifications available in

December 2011. Systems programmers and consultants, however, have indicated that due to the relative complexity of the programming specifications provided by FinCEN, and the fact that the final specifications have not yet been completed or made available to industry, additional time beyond the proposed June 30, 2012 date may be required to modify existing systems with respect to the batch filing function.

Finally, in this regard, industry consultants and systems programmers have expressed concerns that it has been difficult to obtain technical information and get answers from FinCEN with respect to systems problems. In order to facilitate industry's transition to mandatory electronic filing, we would request that appropriately knowledgeable personnel at FinCEN be made available to provide timely technical information to industry.

Conclusion

We appreciate the opportunity afforded us to comment with respect to these very important issues. We hope that the Financial Crimes Enforcement Network will consider favorably our comments and recommendations. We are grateful for FinCEN's efforts thus far and we are committed to continuing to work with all interested parties in implementing industry-wide electronic filing of BSA reports.

Thank you.

Very truly yours,

/signed/

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