



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

Oral Statement of

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Before the
U. S. House Committee on Financial Services
Subcommittee on Oversight and Investigations

Regarding
Suspicious Activity and Currency Transaction Reports:
Balancing Law Enforcement Utility and Regulatory
Requirements

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Mr. Chairman and Members of the Subcommittee, my name is Scott McClain. I serve as Deputy General Counsel to the Financial Service Centers of America, also known as FiSCA.

FiSCA is a national trade association representing over 6,000 neighborhood financial service providers throughout the United States. FiSCA's membership is comprised of community-based financial institutions, which serve millions of customers from all walks of life, including those with bank accounts as well as the "unbanked." Our members provide a range of financial services, including check cashing, money transfers, and money order sales.

First, let me say that FiSCA and its members are committed to the fight against money laundering and terrorist financing, and we have dedicated significant resources in this area.

Ours is a regulated industry, subject to many of the same types of reporting and recordkeeping requirements as banks and other depositories. As "Money Services Businesses" or "MSBs" we are subject to rigorous compliance examinations by IRS agents. When viewed against the "more traditional" banking industry, our record of compliance is quite good.

SAR and CTR compliance requirements have resulted in substantial costs to the MSB industry in several key areas including labor costs, information technology costs, professional service fees, and banking service charges.

Banks that service MSBs have likewise experienced mounting compliance and monitoring costs, which are passed on to MSB customers in the form of increased service fees.

Any analysis of the value of SAR and CTR information to law enforcement should take into account its cost to the MSB industry.

Since 9/11 there has been a tremendous increase in regulatory scrutiny of the financial services industry. Across the board, MSBs have responded to these pressures by defensive SAR filings. MSBs are persuaded that the key to avoiding penalties is to file reports on even marginally irregular activity. As a result, law enforcement agencies are deluged with SARs that are largely useless.

Pressure towards defensive filings emanates in many cases from field-level examiners who “second guess” decisions by compliance personnel. Examiners have been critical of MSBs who had not filed enough SARs. MSBs have also been cited for not reporting transactions that the MSB knew to be legitimate. As a result, MSBs are adopting a “when in doubt, fill it out” philosophy.

To what extent are SARs valuable to law enforcement? What percentage of filed SARs lead to active investigations, and what percentage of those lead to criminal convictions? A critical analysis of these questions, and the overall burden that SARs place on U.S. financial institutions is needed.

Additionally, FiSCA supports an increase in the reporting threshold for CTRs. The present \$10,000 threshold was established in 1970. Since that time, the threshold has not been increased, and has been rendered out-dated due to inflation.

Moreover, the post-9/11 “atmosphere of fear” has given rise to an indirect, yet very costly burden to the MSB industry: the termination of MSB bank accounts. Depositories that service MSBs are faced with significant regulatory burdens, and are required to expend ever greater resources in maintaining MSB customer compliance and monitoring systems. Due to this uncertain regulatory environment, many banks have opted to discontinue their check casher and money transmitter customers.

It is critical to the interests of national security that transparency of MSB transactions be maintained by ensuring that MSBs remain part of the regulated financial community and continue to have access to depository services.

Conclusion

In conclusion, regulatory pressures and the lack of clear guidance in this area have resulted in a tremendous number of defensive SAR filings, and duplicative CTR filings, at a tremendous cost to industry. The value of these reports should be evaluated, and the current reporting system and its cost to industry should be critically assessed.

Again, we thank you for the opportunity to present these views.

I will be happy to address any questions you may have.