

BSA Modernization Can Strengthen Law Enforcement and Ease Compliance

On behalf of the more than 5,700 community banks represented by ICBA, we thank Chairman Crapo, Ranking Member Brown, and members of the Senate Banking Committee for convening today's hearing on "Combating Money Laundering and Other Forms of Illicit Finance: Opportunities to Reform and Strengthen BSA Enforcement." We appreciate you raising the profile of this important issue, and we are pleased to offer this statement for the record.

Community bankers are committed to supporting balanced, effective measures that will prevent terrorists from using the financial system to fund their operations and prevent money launderers from hiding the proceeds of criminal activities. We believe there are opportunities to modernize and reform the Bank Secrecy Act (BSA) so that it produces more useful information for law enforcement while alleviating community banks' compliance burden. Community bankers have consistently cited BSA as one of the most significant sources of compliance burden. Below are our recommendations for BSA modernization.

Update Reporting Thresholds

As the government combats money laundering and terrorist financing, ICBA strongly recommends an emphasis on quality over quantity for all BSA reporting. In this regard, reporting thresholds are significantly outdated and capture far more transactions than originally intended. The currency transaction report (CTR) threshold, which was set in 1970, should be raised from \$10,000 to \$30,000 with future increases linked to inflation. A higher threshold would produce more targeted, useful information for law enforcement. Suspicious activity reporting is the cornerstone of the Bank Secrecy Act (BSA) system and is a way for banks to provide leads to law enforcement. However, in the current regulatory environment, community banks are faced with an overly burdensome process to ensure they are protected and no mistakes are made when reviewed by examiners. As a result, bank employees often file SARs as a defensive measure, and community banks follow the same SAR procedure for every suspicious transaction alert no matter how minor the potential offense. This approach leaves community banks skeptical that SARs have real value real law enforcement.

ICBA recommends reform of the SAR process to a risk-based system with appropriate threshold increases. Similar to the CTR thresholds, the SAR filing thresholds have not been adjusted since becoming effective. Increasing those thresholds would enable community banks to provide more targeted and valuable information to law enforcement.

Improve Flexibility and Ease of Compliance

ICBA supports FinCEN's efforts to simplify certain BSA forms and encourages the government to continue streamlining other reporting requirements. The federal government should continue working with the banking industry to provide additional guidance—such as best practices, questions and answers, or commentary—that is understandable, workable and easily applied by community banks. ICBA encourages FinCEN to continue its outreach, investigation and adaptation of technology to assist banks with their BSA compliance requirements. ICBA also encourages the Office of Foreign Asset Control to streamline and simplify its lists for ease of reference and

application by bankers.

To ensure a consistent and balanced effort to combat money laundering and terrorist financing, the federal government should have consistent regulations across all financial services providers including nonbank entities. Additionally, the government should require reporting of only truly suspect transactions—and strive to balance those requirements against the need to respect customer privacy.

Incentives for Anti-Money Laundering and Anti-Terrorist Financing Efforts

As the Financial Crimes Enforcement Network (FinCEN) identifies additional high-risk transactions and accounts, it increases banks' requirements in these new areas. For community banks, BSA compliance represents a significant expense in terms of both direct and indirect costs. BSA compliance, whatever the benefit to society at large, is a governmental, law enforcement function. As such, the costs should be borne by the government. ICBA supports the creation of financial (e.g., a tax credit) or regulatory incentives to offset the cost of BSA compliance. We believe this would help compensate community banks for their BSA compliance and encourage further investments in this area.

Beneficial Ownership

Beneficial ownership information should be collected and verified at the time a legal entity is formed. Collecting and verifying the identity of all-natural person owners of each entity by either the Internal Revenue Service or other appropriate federal agency and/or state in which the entity is formed would provide uniformity and consistency across the United States. Making the formation of an entity contingent on receiving beneficial owner information would create a strong incentive for equity owners and investors to provide such information. Additionally, periodic renewal of an entity's state registration would provide an efficient and effective vehicle for updating beneficial ownership information. If such information is housed at a government entity, community banks should have access to it.

Closing

Thank you again for convening today's hearing. ICBA looks forward to working with this Committee to modernize the Bank Secrecy Act in a way that will strengthen critical law enforcement while rationalizing community bank compliance with this important law.