

58

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From: Chris.Newell@ANB.COM
Sent: Tuesday, May 03, 2005 5:31 PM
To: Regs.Comments
Cc: Chris.Newell@ANB.COM; Stan.Callahan@ANB.COM
Subject: Docket No. 05-01



Comment Letter
Request for Bur...

<<Comment Letter Request for Burden Reduction.doc>>

Please see our comments regarding regulatory burden for BSA in the attached document.

Chris Newell
Compliance Officer
Amarillo National Bank
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**Amarillo National Bank
Amarillo, Texas 79105
March 24, 2005**

**Communications Division,
Public Information Room, Mail stop 1-5
Office of the Comptroller of the Currency
250 E Street, SW.
Washington, DC 20219**

regs.comments@occ.treas.gov

Attention: Docket No. 05-01

To Whom It May Concern:

Amarillo National Bank, a \$1.6 billion asset community bank located in the Texas Panhandle, thanks the Agencies for allowing comments on reduction of regulatory burden. In the following paragraphs we express our ideas on the burden reduction recommendations for money laundering, safety and soundness and securities rules. Briefly, we believe the statutes and regulations need to be revisited in light of the fact that the world has changed. We will address our comments to each section of the proposal.

Money Laundering

Daniel Stipano, Acting Chief Counsel of the OCC, indicated in his speech at the Florida Independent Bankers Association February 9th of this year that a business as usual approach is not going to be sufficient to meet the challenges at hand. He recommends a risk-based approach for both financial institutions and examiners in establishing and maintaining a BSA/AML program. Using this same approach, it is wise to evaluate the risks to be controlled by and the benefits derived from the various regulatory requirements of BSA/AML programs.

Although the American economy is not based on cash transactions therefore making cash transactions suspect, we believe that either filing CTRs or the threshold trigger for filing CTRs should be revisited. This opinion is based on the 13 million CTRs filed annually and the relatively sparse use of these to assist prosecuting a criminal case. Our bank files approximately 2500 CTRs annually, exempts by regulation 145 customers representing another 18500 transactions that are not filed. It takes us approximately 1000 man hours to accomplish CTR and exemption filing and exemption monitoring annually. The cost associated for filing CTRs alone at Amarillo National Bank is in excess of \$50,000 annually and for what benefit?

These figures do not include the software cost, man-hours and associated costs of. We estimate that AML monitoring software will cost the bank at a minimum \$100,000 annually. Without the specialized software we spend about the same man hours and dollars in reviewing transactions and customer profiles for Anti Money Laundering monitoring as we do filing CTRs. Ours is a low risk bank for money laundering and terrorists activities. Since we have not had to freeze accounts for OFAC and have had only one subpoena resulting from a SAR in the last five years, we feel this is time and money wasted.

SAR filing at Amarillo National Bank reflects annual nation wide percentages but with more emphasis on "structuring". Ninety percent of the structuring SARs the bank files are the result of customers not trusting the IRS and consequently not to thwart the identification of an illegal activity. However, the bank files SARS in these instances to protect itself from examiner criticism. This defensive filing of SARs will simply duplicate in a smaller way the problem created with millions of filed CTRs!

The above mentioned man-hour figures and costs do NOT include man-hours and costs for other parts of a BSA/AML program. Add the man-hours of managing regulatory changes (250), conducting annual risk assessments (50), conducting independent testing or audits (100), updating the BSA program and Board approval (50) and developing curriculum and training (750) and this sum represents the largest compliance issue for the bank. This time is spent apparently without achieving the results for which it was intended and without much benefit to law enforcement.

While Amarillo National Bank recognizes the need for banks to be involved in detecting and preventing criminals from using financial institutions, banks should not be expected to police all customer activities for the federal government without support to perform these duties. We feel you should review and pinpoint activity that should be reviewed by banks for Anti Money Laundering purposes and streamline the reporting process. This should include a study of the usefulness of the CTR and SAR. Clearer regulatory guidelines for filing SARs and the use of the 314(a) list appears to be a much more effective use of bank records and transactions to assist law enforcement's attempts to prosecute criminals and deter the use of financial institutions for criminal funding. This would prevent wasting resources monitoring suspect criminal activity, filing useless CTRs and SARs and make the data submitted more useful to law enforcement.

Based on this background information, please see our comments to the questions listed below.

- A. *Need for Statutory Change: do any statutory requirements underlying the rules impose unnecessary, redundant, conflicting or unduly burdensome requirements and are there less burdensome alternatives?*

We believe the changes to suspicious activity reporting makes filing CTRs redundant. We suggest the threshold be revisited to \$20,000 or \$25,000. We desire updated guidance on methods of money laundering and terrorist activities and the latitude to use these in risk assessments.

- B. *Need and Purpose of the Regulations: are the regulations consistent with the purposes of the statutes that they implement or have circumstances changed so that a rule is no longer necessary? Do any of the regulations impose compliance burdens not required by the statutes they implement?*

World changes dictate the need for statutes to be evaluated for effectiveness to manage the present status of money laundering and terrorist activities. The cost of the present requirements far outweighs the benefits evidenced to date.

- C. *General Approach/Flexibility: would a different general approach to regulating achieve statutory goals with less burden and do any of these rules impose unnecessarily inflexible requirements?*

Yes, please see comments to question A above.

- D. *Effect of the Regulations on Competition: do any of the regulations or statutes create competitive disadvantages?*

Yes, we would like to see the other industries subject to the same federal scrutiny as financial institutions for BSA/AML programs.

- E. *Reporting, Recordkeeping, and Disclosure Requirements: which reporting, recordkeeping or disclosure requirements impose the most compliance burdens and are any of these unnecessary to demonstrate compliance with the law?*

We believe the changes to suspicious activity reporting makes filing CTRs redundant. We also suggest the agencies provide better guidance on filing SARs that would eliminate potential unnecessary (defensive) filing. We need guidance for developing BSA/AML risk assessments that will stand the scrutiny of examiners without being burdensome but yet effective.

F. Consistency and Redundancy: are any of the requirements under one regulation inconsistent with or duplicative with other requirements and if so, are the inconsistencies not warranted by the purposes of the regulations?

Could the BSA, AML and CIP programs be incorporated into one so that there is no duplication of program steps?

G. Clarity: are any of the regulations drafted unclearly?

Apparently yes, why would we need commentaries if they were clear?

H. Burden on Small Insured Institutions: are there appropriate ways to amend these rules to minimize adverse economic impact on institutions of \$150 million or less?

This bank exceeds the \$150 million threshold, but why place more burden on us? Small banks could be just as easily used or manipulated by individuals to launder money or fund terrorist activities. Why not focus on high risk activities?

Thank you for allowing this opportunity to express our comments on this issue.

Sincerely,

**Chris Newell
Compliance Officer**