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February 25, 2005

Office of Chief Counsel
Financial Crimes Enforcement Network
U. S. Department of the Treasury
P. O. Box 39
Vienna, VA 22183

Attention: PRA Comments – Designation of Exempt Person form

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)¹ appreciates the opportunity to comment on FinCEN's proposed revisions to the form currently used by depository institutions to exempt certain customers from the reporting of currency transactions over \$10,000.

ICBA commends FinCEN for making efforts to streamline the form and to make it more user-friendly. Recently, bankers across the country, especially community bankers, have identified compliance with the Bank Secrecy Act as among the most burdensome of all federal regulatory requirements. Although the proposed changes to the exemption form are minor, the ICBA believes that it is critical that federal regulators and private industry continue working together to develop a BSA reporting system that is efficient and economical and that curbs reporting of routine transactions that obscure truly suspect activities.

The proposed revisions to the form designating customers as exempt are minimal. However, they appear designed to make it more straightforward to complete. In addition, the information included on the back of the form has also been expanded to include additional detail about the requirements needed to complete the form, making it easier for users to find answers to questions about how to complete specific items on the form.

¹ The Independent Community Bankers of America represents the largest constituency of community banks of all sizes and charter types in the nation, and is dedicated exclusively to protecting the interests of the community banking industry. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace. For more information, visit ICBA's website at www.icba.org.

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However, while the ICBA applauds FinCEN for the effort to make the form more user-friendly, we also question whether the revisions will result in increased use of the exemption process. Many bankers, especially community bankers, report that the barrier to exempting customers from filing currency transaction reports (CTRs) is not the form but the overall process.

As the ICBA and others have often pointed out, the current cumbersome exemption process makes it much less burdensome and much simpler to file CTRs rather than exempt customers. This is especially true for community banks with limited resources and limited numbers of CTR filings. Moreover, bankers report that not using the exemption process avoids the need for policies, procedures, audits and training on the use of the process and obviates potential criticisms from banking examiners.

Perhaps one of the most straightforward ways to eliminate unnecessary filings would be to increase the size of transactions exempt from the CTR requirement. The current \$10,000 threshold for CTR filings was established 35 years ago and has not been changed, despite inflation and substantial other changes to the BSA reporting system. While law enforcement continues to maintain there is utility in the CTR filing, the ICBA believes that resources of law enforcement and the industry would be better focused on suspicious activity reports (SARs). Therefore, we strongly encourage FinCEN to continue efforts to streamline the entire exemption process to eliminate unnecessary CTR filings.

Thank you for the opportunity to comment. If you have any questions or need any additional information, please feel free to call me at 202-659-8111.

Sincerely,



Robert G. Rowe, III
Regulatory Counsel