



Testimony of

America's Community Bankers

on

“H.R. 5341, Seasoned Customer CTR Exemption Act of 2006”

before the

**Subcommittee on Financial Institutions
and Consumer Credit**

of the

Financial Services Committee

of the

United States House of Representatives

on

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Chairman, President & CEO
Acacia Federal Savings Bank
Falls Church, Virginia**

and

**Chairman, Board of Directors
America's Community Bankers
Washington, DC**

Chairman Bachus, Ranking Member Sanders, and Members of the Committee, I am F. Weller Meyer, Chairman, President and CEO of Acacia Federal Savings Bank, Falls Church, Virginia. Acacia Federal Savings Bank has more than \$1.3 billion in assets. Acacia Federal is a member of the UNIFI Group of companies, which are a diversified group of insurance and financial services businesses.

I am here this afternoon representing America's Community Bankers (ACB). I am the Chairman of ACB's Board of Directors. I want to thank Chairman Bachus for calling this hearing. Mr. Chairman, we appreciate your leadership and the leadership of Committee Ranking Member Frank, Congressman Renzi, Congresswoman Maloney, and others in crafting H.R. 5341, the Seasoned Customer CTR Exemption Act of 2006. We support this legislation, which addresses the outdated and burdensome currency transaction reporting (CTR) requirements that the Bank Secrecy Act (BSA) imposes on community banks.

Community bankers fully support the goals of the anti-money laundering laws, and we are prepared to do our part to fight crime and terrorism. ACB members are committed to ensuring our nation's physical security and the integrity of our financial system. However, we believe the existing statutory and regulatory regime is broken and needs to be repaired. There are three key problems with the current CTR laws.

First, the CTR database is littered with unhelpful CTRs. Financial institutions have filed over 12 million CTRs each year since 1995.¹ According to FinCEN data, over eighty percent of CTRs

¹ FinCEN Report to Congress, *Use of Currency Transaction Reports* (October 2002).

are filed on business customers. Many CTRs are repeatedly filed on the routine business transactions of exemptible entities. This is because the existing CTR exemption scheme is cumbersome and difficult to implement.

Community banks have been reluctant to use the exemption system because:

- It is not cost effective for small institutions that do not file many CTRs.
- They fear regulatory action in the event that an exemption is used incorrectly.
- They lack the time to conduct the research necessary to determine whether a customer is eligible for an exemption.
- It is easier to automate the process and file a CTR on every transaction that triggers a reporting requirement.

As a result, FinCEN and some law enforcement officials report that excess CTRs make it difficult to efficiently search the CTR database to investigate possible cases of money laundering or terrorist finance.

Second, CTR filing imposes a substantial regulatory burden on community banks. This is particularly true for community banks that do not process enough CTRs each year to justify spending tens of thousands of dollars on software that automates the cash transaction monitoring and CTR filing process. As a result, these institutions must manually monitor and file CTRs.

The third, and most fundamental, problem is that existing CTR laws have departed from the BSA's stated mission of collecting reports and records that "have a high degree of usefulness"

for the prosecution and investigation of criminal activity, money laundering, counter-intelligence, and international terrorism.

Need For Legislation

In 2003, FinCEN's Bank Secrecy Act Advisory Group (BSAAG) formed the CTR Reduction Subcommittee to develop recommendations for reducing the number of CTRs filed that are of little value to law enforcement. The subcommittee was composed of banking regulators, trade associations, law enforcement and FinCEN staff. The subcommittee met throughout 2004, but was not able to develop consensus recommendations for achieving measurable reductions in currency transaction reporting. This stalemate is unfortunate. The costs of BSA compliance have only continued to rise since that time. Financial institutions are devoting record portions of their budgets to purchasing BSA monitoring software and hiring additional employees to ensure BSA compliance. Furthermore, community banks are concerned that law enforcement does not review or use much of the information that depository institutions report to the federal government regarding customers' financial transactions.

Because CTR filers and CTR users have been unable to develop a consensus recommendation to FinCEN, we believe that the time has come for Congress to intervene. We call on Congress to adopt H.R. 5341. This important legislation would amend CTR reporting requirements in a way that reduces cost and regulatory burden on financial institutions while ensuring that the government receives highly useful information that helps law enforcement safeguard the United States financial system from abuses of financial crime.

The Seasoned Customer CTR Exemption Act of 2006

The Seasoned Customer CTR Exemption Act of 2006 would make important improvements to the current exemption system by relieving financial institutions from filing CTRs on the routine cash transactions of certain entities, provided that certain requirements are met. We believe that H.R. 5341 would more appropriately balance the cost and benefit of the Bank Secrecy Act's CTR reporting requirements. We also believe that this legislation will help reduce the number of unhelpful CTRs that financial institutions file each year. We are hopeful that more community banks will use the seasoned customer exemption set forth in this legislation than use the current exemption scheme.

H.R. 5341 would simplify the criteria for exempting customers from CTR reporting and would require a depository institution that exempts a seasoned business customer to file a one-time notice of designation of exemption for each customer that the institution exempts from CTR reporting. This approach would be simpler and less burdensome than the exemption criteria and biennial renewal requirements under the current regulatory regime.

In addition to providing meaningful regulatory relief for depository institutions, H.R. 5341 would advance the BSA's goal of collecting reports and records that have a "high degree of usefulness" for law enforcement. We do not believe that repeated CTR filings on cash transactions that are routine for particular business customers have a "high degree of usefulness" in prosecuting financial crime.

If H.R. 5341 is adopted, the transactions of exempted customers will still be screened for illicit activity. Institutions will still be required to conduct customer due diligence and monitor customer account activity and report suspicious transactions. Furthermore, law enforcement will continue to have at its disposal a variety of tools that were created by our nation's anti-terrorism laws. Institutions will still be required to search their customer databases for the names of known or suspected money launderers and terrorists. Law enforcement will also be able to use the subpoena process to obtain a suspect's bank records.

For the past several years, law enforcement has been working to develop improved data mining capabilities and new analytical tools to better use CTR data. It may be tempting for Congress to not take any further action on H.R. 5341 in the hopes that law enforcement is able to materially improve data retrieval and analysis. However, the wait and see approach ignores the compliance and economic burdens shouldered by community banks. It ignores the requirement that anti-money laundering reports provide "highly useful" information. It ignores the Money Laundering Suppression Act of 1994, which requires the number of CTR filings to be reduced by thirty percent. It also ignores the real-world realities of CTR filing. In the absence of meaningful regulatory relief, depository institutions will continue to file CTRs on every cash transaction of \$10,000 or more. While this approach will further bog down the investigation process, it is simpler and often more cost efficient than using the current exemption system.

CTR Filing Threshold

While we strongly support the provisions of the Seasoned Customer CTR Exemption Act of 2006, we are concerned that some community banks might continue to file CTRs on all cash

transactions of \$10,000 or more in spite of the new exemptions that would be available. Furthermore, some institutions will continue to file CTRs on cash transactions of less than \$10,000 to avoid being criticized by bank examiners for inadequate efforts to report cash deposits that are structured to evade CTR reporting. Therefore, the BSA should be further amended to provide additional regulatory relief. We specifically recommend that Congress increase the dollar value that triggers CTR filing.

The current \$10,000 threshold was established in 1970. When adjusted for inflation, \$10,000 in 1970 is equivalent to more than \$52,000 today. We understand that when the regulations were first implemented, there was very little activity over the \$10,000 threshold. Today, however, such transactions are routine, particularly for cash intensive businesses. Raising the threshold does not mean that institutions will be relieved from monitoring account activity for suspicious transactions below the CTR reporting requirement. Increasing the threshold would enable financial institutions to alert law enforcement about activity that is truly suspicious or indicative of money laundering, as opposed to bogging down the data mining process by filing reports on common transactions.

Based upon data that FinCEN provided to the Bank Secrecy Act Advisory Group's ("BSAAG") CTR Subcommittee, increasing the reporting threshold to \$20,000 would decrease CTR filings by 57 percent and increasing the threshold to \$30,000 would decrease filings by 74 percent. The impact of raising the dollar value is even more astonishing for community banks. An informal survey of ACB members conducted in June 2004 indicates that increasing the dollar amount to \$20,000 would reduce community bank CTR filings by approximately 80 percent. Even with the

dramatic change in the value of \$10,000 over the past thirty years, ACB acknowledges that a \$10,000 cash transaction is still a substantial amount of cash for an individual customer to deposit or withdraw from an institution. However, businesses of all sizes routinely conduct cash transactions over \$10,000.

Conclusion

Community banks understand the importance of preventing and identifying crime and abuse. Yet, the cumulative burden placed on community banks has very real opportunity costs. Increasingly, financial institutions believe that the federal government has little regard for the amount of time, personnel, and monetary resources that BSA compliance drains from an institution's ability to serve its community. The monthly fee that a community bank can spend for software that monitors cash transactions is money that an institution could have spent to hire multiple tellers, hire a new loan officer to reach out to the community's small businesses, or develop and market a new product. What may seem like insignificant costs to law enforcement have very real business implications for community banks and their communities.

I wish to again express ACB's appreciation for your invitation to testify on the importance of improving the CTR system to collect only information that is highly useful to law enforcement. ACB reiterates its support for H.R. 5341. We believe that this legislation will provide important regulatory relief to community banks by providing a simpler alternative to the current CTR exemption provisions.