Issue 11

May 2007

The SAR Activity Review
Trends, Tips & Issues

The SAR Activity Review

Trends Tips & Issues

Issue 11

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Introduction

The SAR Activity Review – Trends, Tips & Issues is a product of continuing dialogue and close collaboration among the nation's financial institutions, law enforcement officials, and regulatory agencies[1] to provide meaningful information about the preparation, use, and value of Suspicious Activity Reports (SARs) filed by financial institutions.

We are continuing to provide expanded descriptions of law enforcement cases included in Section 3 to better demonstrate how important and valuable Bank Secrecy Act (BSA) data is to the law enforcement community. Many of these cases, which range in topic from drug investigations to insurance fraud, were proactively initiated as a result of your BSA report filings. We are confident that the additional details provided in these cases will add more value for our readers.

This edition addresses several noteworthy topics. The articles include perspectives on the BSA as it affects the insurance industry, including an analytical review and an industry viewpoint. There also are several items relating to debt elimination schemes, an issue raised in reader feedback. Finally, this issue contains a new series of articles on the broad value and utility of BSA data.

The SAR Activity Review is possible only as a result of the extraordinary work of many FinCEN employees and FinCEN's regulatory, law enforcement, and industry partners. In order to recognize that hard work, we are for the first time including acknowledgments of contributors to this issue of *The Review*. You may notice other format and content enhancements in this and upcoming issues. This includes the possibility of a new tagline to replace "Trends, Tips and Issues" as suggested by our readers. Stay tuned.

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1 Participants include, among others, the American Bankers Association; Independent Community Bankers of America; American Institute of Certified Public Accountants; Securities and Financial Markets Association; Non-Bank Funds Transmitters Group; Board of Governors of the Federal Reserve System; Office of the Comptroller of the Currency; Federal Deposit Insurance Corporation; Office of Thrift Supervision; National Credit Union Administration; U.S. Securities and Exchange Commission; U.S. Department of Justice's Criminal Division and Asset Forfeiture & Money Laundering Section and the Federal Bureau of Investigation; Drug Enforcement Administration; U.S. Department of Homeland Security's Bureau of Immigration and Customs Enforcement and U.S. Secret Service; U.S. Department of the Treasury's Office of Terrorism and Financial Intelligence, Internal Revenue Service, and the Financial Crimes Enforcement Network.

Below is a summary of topics addressed in this issue.

- Section 1: Director's Forum;
- Section 2: Trends and Analysis – An update on SARs related to unregistered/unlicensed MSBs as reported by depository institutions and an analysis of SARs related to insurance companies;
- Section 3: Law Enforcement Cases – Including fraud and racketeering cases, transactions with Iran, and debt elimination schemes;
- Section 4: Tips on Form Preparation and Filing – The most frequently asked questions received by FinCEN's Regulatory Helpline related to proper preparation of a SAR;
- Section 5: Issues and Guidance – Description of debt elimination schemes; filing SARs on individuals using both ITINs and SSNs; and the diverse uses of SAR data;
- Section 6: Industry Forum – Focuses on SAR filing and risk assessment within the insurance industry;
- Section 7: Feedback Form.

Your comments and feedback are important to us. Please take a moment to let us know if the topics chosen are helpful. To help you submit your comments, we have included a feedback form in Section 7.

Your comments may be addressed to:

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Section 1 - Director's Forum

I am delighted soon after joining FinCEN to be able to introduce the eleventh edition of *The SAR Activity Review*, because it covers many of the significant issues raised in the feedback we have received. These include article topics such as debt elimination schemes, how the Bank Secrecy Act (BSA) affects the insurance industry, and an update on Suspicious Activity Reports (SARs) related to unregistered/unlicensed Money Services Businesses (MSBs). We strongly encourage you to continue giving us feedback as we are committed to ensuring that *The Review* is not only a useful reference but also a forum through which we can assess and discuss BSA issues that concern you.

James H. Freis, Jr.
Director, FinCEN

We are launching in this edition a new series of articles on the broad value and utility of BSA data, something which we trust you will find valuable not only in conducting your own risk analysis but also in better understanding how this information truly helps law enforcement, intelligence and regulatory agencies. And, as with the last edition of *The Review*, we continue to expand our section on descriptions of law enforcement cases that demonstrate how important and valuable BSA data is to the law enforcement community. Ranging from drug investigations to insurance fraud, most of these cases are the result of financial institutions' proactive filings of BSA reports. We are confident that the additional details provided in the law enforcement case studies will prove to be helpful for all our readers, particularly those with BSA filing obligations as the details may help them better identify suspicious activity.

FinCEN's commitment to providing important information is not limited to *The Review*. In the last six months, we have issued a number of industry assessments based on our independent analysis of SAR data. These assessments looked at the role of domestic shell companies in financial crime, the growth in money laundering-related suspicious activity reporting associated with the commercial real estate industry, and the rise in suspected mortgage loan fraud. We plan to continue analyzing the BSA data related to suspected mortgage loan fraud and anticipate issuing similar industry assessments in the future, based on the interest and feedback of our stakeholders. We are dedicated to providing specific and detailed analysis by FinCEN in order to inform law enforcement efforts.

It is important to point out one development since the last *The Review* that demonstrates our commitment to improving and expanding outreach to the financial services sector, our federal and state regulatory colleagues and the law enforcement community. We established FinCEN's Office of Outreach Resources with the mission of providing support to institutions subject to BSA requirements through the development of BSA guidance, outreach, training, and education. This Office is responsible for coordinating and supporting the work of the BSA Advisory Group (BSAAG) which is a model forum through which the industry, regulators and law enforcement community not only share ideas on issues of mutual interest but which also enables us to collaborate on how best to reach mutually agreed upon resolutions. If there are issues on which you believe that FinCEN should be addressing or providing guidance, I encourage you to reach out to this office and let them know your thoughts. With your help, I anticipate that the work of this Office will go a long way in ensuring our stakeholders are given the support they need to meet their obligations.

James H. Freis, Jr.
Director
Financial Crimes Enforcement Network

Section 2 - Trends & Analysis

This section of *The SAR Activity Review* describes patterns identified in suspicious activity reporting by both depository and non-depository institutions. In this issue, we address suspicious activity reporting related to the insurance industry, and provide an update on filings regarding unlicensed/unregistered MSBs.

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Suspicious Activity Reports: A Comparative Analysis of the Filing Activity of Depository Institutions Related to the Reporting of Unlicensed/Unregistered Money Services Businesses Prior to and Following April 2005 FinCEN Guidance

The SAR Activity Review – Trends, Tips & Issues, Issue 10 conveyed the results of a FinCEN study examining suspicious activities involving possible unregistered money services businesses (MSBs) reported in depository institution Suspicious Activity Reports (SARs) filed between January 1, 2002 and April 30, 2005.[2] On April 26, 2005, FinCEN and the Federal banking agencies, issued interagency interpretive guidance to depository institutions on providing banking services to MSBs operating in the United States.[3] Subsequently, FinCEN conducted a post-guidance study, similar to the previous study, to examine depository institution SARs filed from May 1, 2005 through February 28, 2006 to assess the impact of the guidance and compare the results of the pre-and post-guidance assessments.

The second study identified 2,934 depository institution SARs related to potentially unregistered MSBs. This reflected a 47 percent increase over the initially identified 1,996 SARs filed for similar reasons during the full 40-month period preceding May 1, 2005.

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2 See *SAR Activity Review, Issue 10*. Trends and Patterns article "Suspicious Activity Reports: Filing Activity and Detection of Unlicensed/Unregistered Money Services Businesses."

3 This guidance, "Interagency Interpretive Guidance on Providing Banking Services to Money Services Businesses Operating in the United States," can be found at http://www.fincen.gov/guidance04262005.pdf.

Comparative Analysis of Pre and Post-Guidance SAR Data

While significantly more SARs were filed in the 10-month post-guidance period than in the 40-months preceding the guidance, even more striking is the decrease in the number of SARs remaining for analysis after screening.[4] Of 1,996 SARs initially identified for the pre-guidance study, 1,214 (60.82%) SARs were actually analyzed. Of 2,934 SARs initially identified for the post-guidance study, 36.74% (1,078) remained for analysis after review. This decrease is explainable after a comparison of the pre- and post-guidance SAR narratives.

Narratives in SARs filed after the guidance was issued indicated that depository institutions became much more aware of the registration and licensing requirements, more diligent in dealing with customers believed to be operating as unregistered MSBs, and more encouraging with such customers to register as MSBs. According to SAR narratives in 90-day updates to initial SARs, some depository institutions directed customers to FinCEN's website for the necessary registration forms, while many other institutions provided these forms directly to their customers. In many instances, depository institutions set deadlines by which customers were required to either register with FinCEN as an MSB, or complete an affidavit affirming they would cease MSB activities. The only alternative offered by many depository institutions was account relationship termination, which was reported in a number of SAR narratives. Increased diligence by filing institutions subsequent to issuance of the guidance to identify and encourage registration of customers operating as unregistered MSBs allowed FinCEN to screen many more SARs out of the post-guidance study prior to analysis.

In addition, reporting of MSB activities in post-guidance SAR narratives showed a trend of filing institutions being more specific in identifying reasons why the filing institution believed its customer was operating as an unregistered MSB.[5]

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4 SARs were initially identified for this study based on set parameters, discussed later in this report. SARs were then culled from the sample if they were duplicative, if they referenced a foreign MSB, or if the subjects were determined to have registered as MSBs after the SAR was filed.

5 There were 1,238 noted activity occurrences reported in 1,214 SARs analyzed in the pre-guidance study, and 1,640 activity occurrences reported in 1,078 SARs analyzed in the post-guidance study. Neither the pre nor post-guidance numbers or percentages add to the stated numbers of total activity occurrences or 100% respectively, because in both studies activities other than those germane to Table 1 were recorded (such as institution-initiated account relationship terminations). The graphic is based on the number of activities reported in Table 1 rather than percentages of total reported activity occurrences.

Suspicious Activity Trends with MSBs

Categories of suspicious activity trends included:

- Check cashing aggregating to more than $1,000 per customer per day comprised 34.94% of total reported activity in the post-guidance study, up from 27.87% of total reported activity in the pre-guidance study.
- Specific references to money laundering increased to 3.29% of total reported activity in the post-guidance study, up from 0.97% of total reported activity in the pre-guidance study.
- Non-specific references to check cashing fell from 27.38% of total reported activity in the pre-guidance study to 14.33% of total reported activity in the post-guidance study.[6]
- Non-specific references to MSB activities declined from 10.58% of total reported activity in the pre-guidance study to 4.33% of total reported activity in the post-guidance study.[7]

On the other hand, trends in reported activity involving all informal value transfer systems and illicit activities associated with the operation of unregistered MSBs, excluding money laundering, remained virtually static.

- Before the guidance was issued, informal value transfer system-related activity accounted for 4.12% of total reported activity, compared to 4.08% of total reported activity after the guidance was issued.
- Non-money laundering illicit activities associated with the operation of unregistered MSBs accounted for 1.21% of all reported activity pre-guidance and 1.40% of all reported activity post-guidance.

Comparison of the incidence of suspicious money transmission reported in SAR narratives between the two studies declined as a percentage of aggregate reported activity from 24.96% in the pre-guidance study to 14.44% in the post-guidance study.

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6 Non-specific means that the filing institution reported that its customer was cashing checks, but did not specify that the customer was cashing more than $1,000 per person per day, thereby obligating the customer to register with FinCEN as an MSB.

7 Non-specific means that the filing institution reported that its customer was engaging in MSB activities, but failed to identify the activity(ies) and the rationale for concluding that the customer was obligated to register as an MSB.

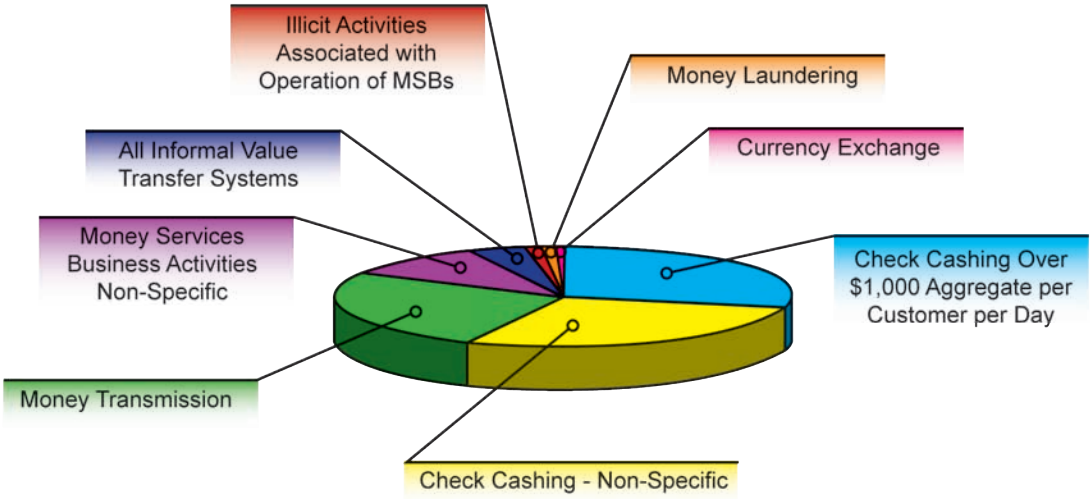
Tables: Types of Reported Activities

Activity	Number of Pre-Guidance Occurrences	Percentage of Total Post-Guidance Occurrences	Number of Post-Guidance Occurrences	Percentage of Total Post-Guidance Occurrences
Check Cashing (Over $1,000 Aggregate per Customer per Day)	345	27.87	573	34.94
Check Cashing (Non-specific)*	339	27.38	235	14.33
Money Transmission	309	24.96	237	14.45
Money Services Business Activities (Non-specific)	131	10.58	71	4.33

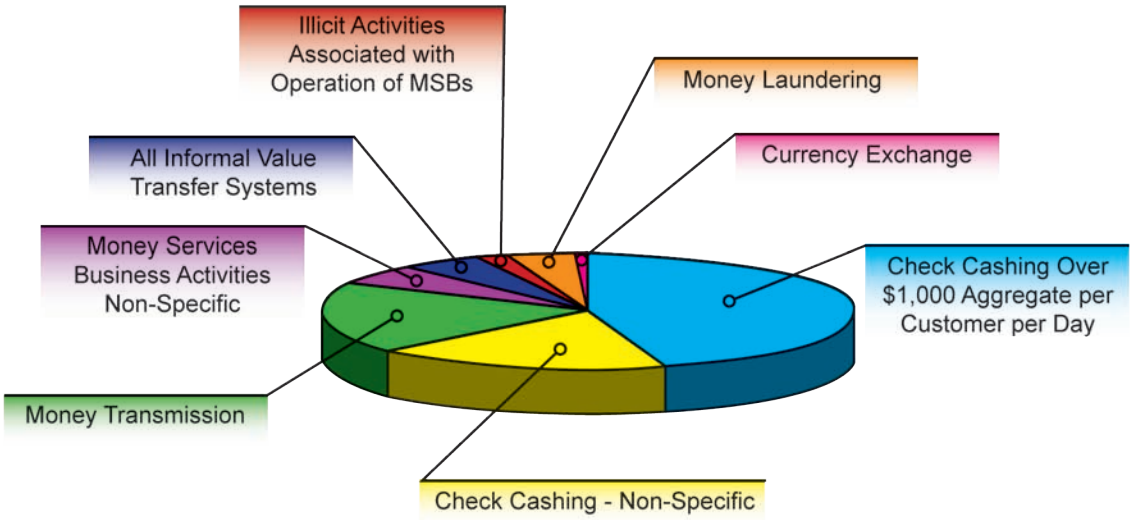
* Some filers provided insufficient detail to positively identify the customer as a check casher under FinCEN's definition at 31 CFR 103.11(uu)(2): "Check casher. A person engaged in the business of a check casher (other than a person who does not cash checks in an amount greater than $1,000 in currency or monetary or other instruments for any person on any day in one or more transactions)."

Activity	Number of Pre-Guidance Occurrences	Percentage of Total Post-Guidance Occurrences	Number of Post-Guidance Occurrences	Percentage of Total Post-Guidance Occurrences
All Informal Value Transfer Systems (Excluding Black Market Peso Exchange)	49	27.87	573	34.94
Illicit Activities Associated with Operation of Unregistered MSBs	15	27.38	235	14.33
Money Laundering	309	24.96	237	14.45
Currency Exchange	131	10.58	71	4.33
Specifically Black Market Peso Exchange	2	0.16	4	0.24
Exchange of Cashed Third-Party Checks with Related Business for Cash	2	0.16	3	0.18

Pre-Guidance Distribution of Reported Activities



Post-Guidance Distribution of Reported Activities



Depository Institutions – Types of MSB Activities Observed

FinCEN's research identified 1,078 relevant depository institution SARs filed between May 1, 2005 and February 28, 2006. Analysis of these documents identified 1,000 businesses and 263 individuals possibly engaged in unregistered MSB-related activities.[8]

Comparisons were made between pre and post-guidance SAR narratives for ten referenced activities, as noted in Table 1. The most commonly reported activities in both studies were specific check cashing of over $1,000 per customer per day, non-specific check cashing, and money transmission. In the pre-guidance study, the ranking of each by number of reported occurrences ran in that order. In the post-guidance study, money transmission just edged out non-specific check cashing by two occurrences. Of special note in both studies were SARs describing illicit activities associated with the operation of unregistered MSBs. In the post-guidance study, SAR narratives described clear or probable instances of money laundering, tax evasion, fraud, black market peso exchange, Office of Foreign Assets Control (OFAC) violations, and possible links to terrorist financing. Examples of specific activities reported follow.

Money Laundering

During a one-month period, an employee of a convenience store purchased money orders from the store, totaling nearly $170,000, using checks drawn on her personal checking account. During this same period, the employee made aggregate cash deposits into her checking account approximating the total value of the money orders purchased. As a result, it appears that the employee may have been selling the money orders in bulk to individuals possibly wishing to avoid identification and recordation requirements.

Tax Evasion

Individuals associated with businesses engaged in manufacturing and/or packaging of tobacco products received multiple large winnings checks payable to themselves from a local tribal gaming establishment. The SAR filer suspected that the checks might represent payment for the purchase of large volumes of untaxed cigarettes for further re-sale on the black market, or possible embezzled tribal funds being funneled back to the embezzlers. The checks were generally exchanged for official bank checks and cashed at the depository institution filing the SAR. The same individuals negotiated additional winnings checks at the filer, which were payable to individuals not known to be associated with these individuals or their businesses/employers.

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8 Entities and individuals identified in SARs were compared with the most recent Money Services Business Registration List. FinCEN refers unregistered MSBs to the IRS for examination, for civil enforcement or for criminal investigation and prosecution as appropriate.

Fraud

A bank reported that one of its business customers deposited automobile insurance claim checks totaling almost $60,000 during a nine-month period. All of the checks were payable to clients of the customer, most exceeded $1,000, and all had been cashed at the bank customer's place of business for its clients. The facts suggest the customer may have been involved in an automobile insurance fraud ring. The bank's customer had not registered with FinCEN as an MSB.

Black Market Peso Exchange

A bank's business customer, a wholesale computer and peripherals seller, received wire transfers from the tri-border region of Latin America (Argentina, Brazil and Paraguay) totaling over $7 million. Debits to the account showed mainly payments to computer and other high-tech companies. The tri-border region is noted for narcotics proceeds laundering through the purchase of consumer goods, especially computers and other electronics, in the United States for shipment to drug producing countries. Typically, the goods are smuggled into the countries and then sold by legitimate businesses.

A bank customer deposited nearly $200,000 in cash to his account in less than a year. The customer periodically transferred funds by wire to a business in a foreign jurisdiction. When questioned about the activity, the customer stated the money had been received from local individuals who were representing individuals located in countries adjacent to the tri-border region. The customer indicated the wire transfers were sent to a relative in the foreign jurisdiction who deals in automobiles. Once the funds were received, the relative purportedly shipped the automobiles to individuals located in the other countries.

Informal Value Transfer Systems

A bank reported that its customer sent five wire transfers totaling over $100,000 to the same individual in a foreign jurisdiction, and 27 wire transfers totaling over half a million dollars to different individuals in another foreign jurisdiction. The customer deposited cash and checks drawn by many different individuals payable to him. In one instance, the memo line on the check stated "remittance." Cash deposits from many different individuals in seven states and 23 cities across the United States also were made to the same account. These deposits funded the wire transfers.

A bank reported that a customer deposited third-party checks and cash into his account totaling over $230,000. The customer then issued checks to several different individuals. All of the checks were negotiated at foreign casas de cambio.

OFAC Violations

During a five-month period, a bank customer deposited items and received wire transfers to a business account totaling over $1.3 million. Items and wire transfers showed face amounts of hundreds to several thousands of dollars each. Debits to the account consisted of wire transfers to businesses located in several different Asian countries. It was determined that the businesses associated with the account sold disparate products including tobacco, textiles, plant foods, and automobile parts. When questioned about the activities, the customer eventually admitted the businesses receiving the funds were sending the money to a country appearing on the OFAC list of prohibited countries. Though the filer identified the activities as a violation of OFAC regulations, the SAR narrative did not specifically indicate the activities had been reported to OFAC.

Possible Terrorist Financing

A U.S. money center bank reported that it received a cash letter from a bank in a foreign jurisdiction containing 62 checks totaling over $180,000, drawn by individuals across the United States. All of the checks were payable to one of three individuals. Upon closer examination, the bank determined that the handwriting on the payee line of each check was similar, indicating the checks were probably issued in bearer form with the payee line subsequently completed by the payee.

Bank Secrecy Act Compliance

The post-guidance study of SAR filings on MSBs showed an increase in the number of SARs reporting unregistered MSBs over the number of such filings in the pre-guidance study; from 1,996 initially identified in the 40-month pre-guidance study to 2,934 initially identified in the 10-month post-guidance study. It is not known whether this number is an understatement, given the number of potential filing institutions. Though the top 15 SAR-filing depository institutions in the post-guidance study continued to file the majority of unregistered MSB-related SARs, these filings accounted for 61.69% of such filings, compared with 67.99% of such filings reported in the pre-guidance study.

The post-guidance study showed average SAR filing timeliness improving among the nine filing institutions that appeared among the top 15 filers in both studies. Among these institutions, average filing for this category of SARs improved to 23.05 days in the post-guidance study, down from 30.62 days in the pre-guidance study.

Conclusion

Research indicates depository institution SAR filings relating to unregistered MSBs are increasing. Approximately 1,342 total filings were identified for the three-month period following the February 28, 2006 end of the post-guidance review period. As noted in the conclusion of a companion article in Issue 10 of The SAR Activity Review, it is believed that the continuing increase in filings largely can be attributed to both the ongoing dialogue between industry and regulators, and continuing improvements in depository institution compliance programs, employee training, and monitoring systems and to the April 2005 guidance and advisory on providing banking services to MSBs.

FinCEN now periodically monitors SAR filings related to unregistered MSBs. As we do so, we will continue to develop appropriate guidance intended to assist financial institutions in identifying and reporting potentially unregistered MSBs. FinCEN refers entities determined to be operating as unregistered MSBs to the appropriate regulatory or law enforcement agency. FinCEN also is seeking feedback on subsequent actions, such as outreach to or enforcement actions against these entities.

The Insurance Industry: A Study of Suspicious Activity Reports

Effective May 2, 2006, insurance companies[9] became subject to the requirement to file Suspicious Activity Reports (SARs).[10] FinCEN issued guidance on May 31, 2006, which instructed insurance companies to use the suspicious activity reporting form used by the securities and futures industries (FinCEN Form 101, SAR-SF) until a new SAR form specifically designed for insurance companies is developed. Prior to this time, some

9 "Insurance company" or "insurer" is defined in the final rule to describe any person engaged within the United States as a business in the issuing or underwriting of "covered products." Covered products are those insurance products determined to present a higher degree of risk for money laundering, specifically a permanent life insurance policy other than a group life insurance policy; an annuity contract, other than a group annuity contract; and any other insurance product with features of cash value or investment features. 31 CFR 103.16(a)(4).

10 70 Fed.Reg. 66761 (Nov. 3, 2005), codified at 31 CFR 103.137.

insurance companies voluntarily filed suspicious activity reports using the depository institution SAR form.

FinCEN analyzed SARs for the ten year period from April 1, 1996 to June 30, 2006 filed by depository institutions, money services businesses, securities and futures firms, and insurance companies related to suspected money laundering or other reportable financial crimes involving insurance companies, insurance agents, or insurance brokers (or their employees) to identify reporting trends and patterns.

FinCEN analysts queried the SAR database to identify SAR forms containing one or more of the following search terms in the forms' narrative sections: insurance policy, annuity, variable life or whole life, covered product, free look period and cash surrender value. SARs were also retrieved if the following terms appeared in the subject occupation or filer name fields: insurance agent, insurance broker or life insurance. The query identified: (1) 8,166 depository institution SAR forms (Treasury Form TD F 90-22.47); (2) 341 money services businesses SAR forms (Treasury Form TD F 90-22.56); and (3) 373 securities and futures industries SAR forms (FinCEN Form 101).

Due to the large volume of SARs containing the designated search terms, a random sample was selected for review in each of the three categories noted above. The sample sizes were chosen to provide a confidence level of 95% with a confidence interval of plus or minus three (+/-3).

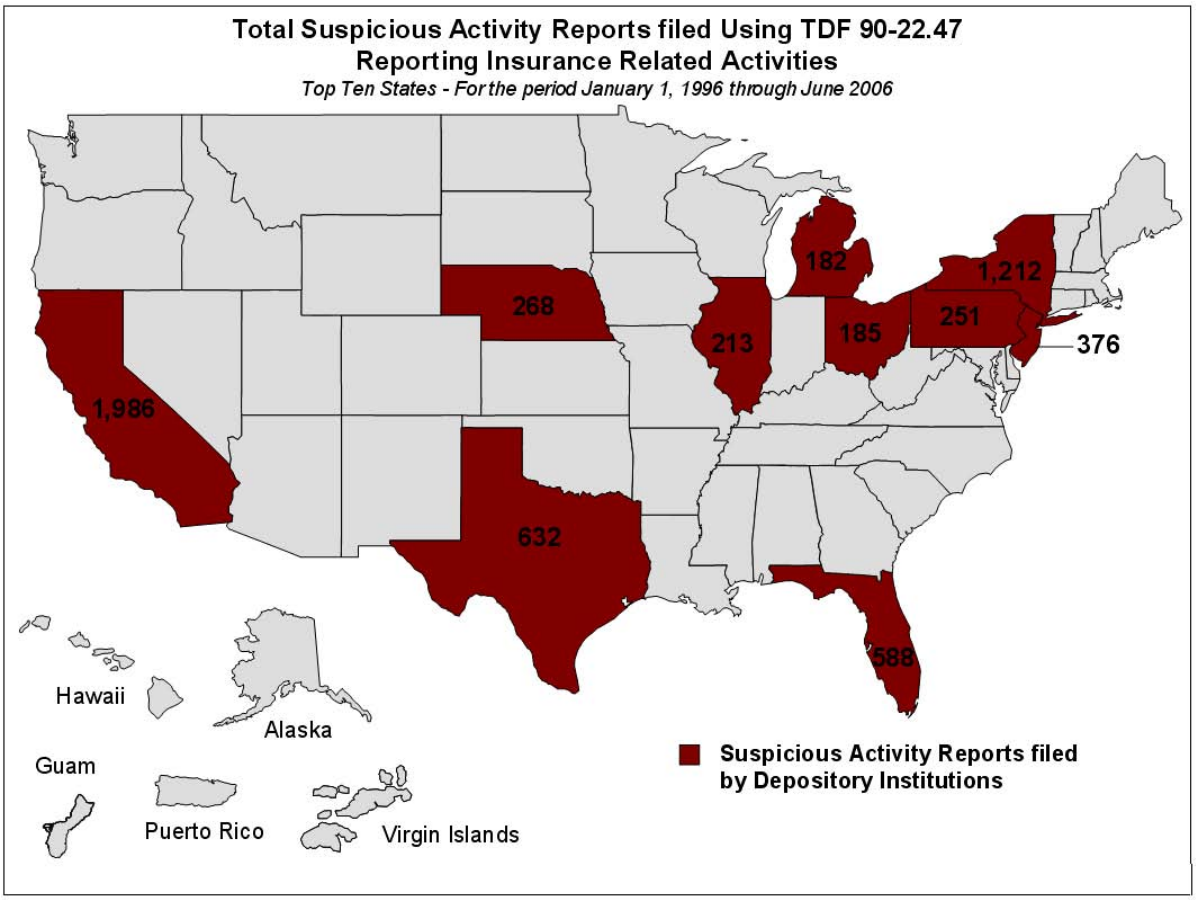
A query of SARs filed on the Securities and Futures Industries form (FinCEN Form 101/ SAR-SF) on or after May 2, 2006 through July 31, 2006, identified 1,651 records, seventy of which were filed by insurance companies. At this time, it is too early to provide any substantive analysis on these filings. Trends and analysis from these reports will be provided in a future issue of *The SAR Activity Review*.

Suspicious Activity Reports filed by Institutions Using the Depository Institution Form

Research of depository institution SAR (Form TD F 90-22.47) narratives that included the designated search terms retrieved 8,166 reports filed by 1,045 filers. The filers comprised depository institutions, securities and futures industries, money services businesses, and insurance companies.

Exhibit 1 depicts the number of depository institution SARs originating from the top ten filing states (based on overall SAR volume) that reported suspected money laundering and other financial crimes involving insurance companies or covered insurance products.

Exhibit 1



Depository Institution SAR Narrative Sampling

FinCEN analysts reviewed a sample of 944 depository institution SAR narratives for discernable trends and patterns. This report summarizes SARs that identified a number of suspicious transactions involving persons employed in the insurance field; insurance agencies and brokers; annuities; payments from or to insurance companies; and other possible money laundering and fraudulent activities.

Filers reported suspicious activities involving subjects employed in the insurance field in 254 (26.91%) of the sampled reports. In every case, the activity occurred in the subject's personal account. Examples of the reported activity follow:

- **Structuring.** Filers most frequently reported subjects structuring cash transactions (deposits and withdrawals).

- **Unknown source of funds.** Filers reported they were unable to verify the source of large cash amounts or negotiable instruments deposited into, or wire transfers credited to, the subjects' personal accounts. Narratives frequently described these transactions as inconsistent with the subjects' normal or expected account activity.

- **Money laundering.** Filers reported activities that could indicate the layering stage in a money laundering scheme, i.e., funds transferred among several institutions with no apparent legitimate purpose; funds deposited in the United States being withdrawn through ATMs in a foreign jurisdiction; and funds transferred through several U.S. banks and then wired offshore.

Filers reported that suspicious activity involved accounts of insurance agencies or insurance brokers in 218 (23.09%) reports. The transactions appeared to be conducted to avoid Bank Secrecy Act (BSA) reporting requirements. Some examples follow:

- **Cash deposit and withdrawal structuring.** This activity was reported in 159 reports. The reports involved cash transactions, aggregating to $15,972,025, used to purchase insurance products. Some filers reported that the insurance agency/broker served clients who did not have bank accounts and paid premiums in cash. None of the 159 SARs disclosed the types of insurance products purchased; it is unknown if the products involved would have been "covered products" pursuant to the rule.

- **Transactions inconsistent with business type.** Filers reported transactions that were inconsistent with the types expected in an insurance agency, such as deposits of funds for which the companies were unable to discern the source or purpose; unusually large cash deposits; operating a loan service; and wire transfers with no apparent business purpose.

- **Unregistered money services business.** Filers reported that account transactions caused them to suspect that insurance agencies were operating check cashing services. The filers noted that the businesses were not registered with FinCEN as money services businesses to operate check-cashing services.

- **Money laundering.** Filers reported wire transfers to foreign jurisdictions with no apparent business purpose. One filer reported that its customer was a subject of news reports of insurance agencies used in money laundering schemes.

- **Unknown source of funds.** A depository institution reported that affiliated insurance agencies were depositing approximately $1 million in cash each month. The source of funds was unverifiable.

Suspicious transactions involved insurance annuities in 48 (5%) of the sampled narratives. Filers characterized all of the suspicious activity in these reports as BSA/Structuring/Money Laundering.

- **Unknown source of funds.** Filers reported unknown or unverifiable sources of funds, such as cash, official checks, or sequential money orders, used to fund annuity purchases.

- **Structuring.** Filers reported structured withdrawals of funds following deposits of annuity checks. This type of activity could indicate an effort to avoid BSA reporting requirements.

- **Rapid Fund Withdrawal.** Filers reported rapid withdrawals of funds shortly after deposits of large insurance checks. The filers deemed this activity suspicious because the purpose of the large fund withdrawals could not be determined.

- **Free look period.**[11] Two filers reported the cancellation of annuity products and requests for refunds within the free look period. Although this activity may be a legitimate exercise of consumer rights, it also could represent a money laundering method, particularly if accompanied by other indicia of suspicion.

- **Investment fraud.** One filer reported a client's pattern of closing accounts with one known insurance company and reopening new accounts shortly afterwards with the same company, each time with new ownership information.

- **Money laundering.** Filers reported activities they believed could represent money laundering involving annuities such as: a non-resident alien attempted to purchase a multi-million dollar, single premium, immediate annuity product with a monthly payout of over $10,000; a report of an indictment for money laundering involving some annuity accounts; and a report of the circular movement of cash between a subject's personal and business accounts and an annuity account opened with another institution.

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11 Variable annuity contracts typically have a "free look" period of ten or more days during which a purchaser may terminate his contract and receive a refund without paying surrender charges. The amount of the refund may be the account value when the contract is terminated or the purchase price, depending on the terms of the contract and applicable state law.

Suspicious activity involved deposits of checks issued from insurance companies or checks used as payments to insurance companies in 192 (20.34%) reports.

- **Structuring.** Subjects structured cash withdrawals after deposits of checks drawn by insurance companies. This could represent an effort to avoid the BSA reporting requirements.

- **Funding insurance policies with cash.** Filers reported that insurance premiums were funded with cash or negotiable instruments such as money orders or official checks. This could represent a money laundering method.

Other types of reported activities included:

- **Viatical settlements.** Four filers reported suspicious activities involving viatical settlements. In a viatical settlement, a person purchases the life insurance policy (or part of a policy) from the seller (often someone with a terminal or chronic illness) at a price that is less than the death benefit of the policy. The purchaser becomes the new owner or beneficiary of the life insurance policy, pays all future premiums, and collects the death benefit when the seller dies. Viatical settlements are legitimate investment products that can be abused to commit fraud against the insurance company and legitimate investors, as well as for money laundering. One subject guaranteed investment returns up to 80%. Another filer reported that the policy beneficiaries were primarily located in a foreign jurisdiction.

- **Advance fee fraud.** Between May 2002 and March 2004, two insurance companies filed 30 reports regarding e-mails requesting assistance in moving large sums of money. The insurance companies recognized that these e-mails were likely advance fee fraud[12] schemes and did not respond to the emails.

- **Insurance loans.** A credit union reported a pattern of structured cash withdrawals and repayments involving a loan on an insurance policy.

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12 In the "Advance Fee Fraud" or 4-1-9 schemes, victims may receive emails and letters from groups of con artists, often located in Nigeria, who claim to have access to a very large sum of money and want to use the victim's bank account to transfer the funds. In exchange for the victim's services, they claim they will give the recipient of the email/letter a large percentage of the funds. These schemes have a common denominator - eventually the target of the scheme will be required to pay up-front (advance) fees (licensing fees, taxes, attorney fees, transaction fees, bribes, etc.) to receive the percentage of funds promised. The con artists usually request that they be furnished with blank company letterhead and/or bank account information.

The subject withdrew just under $10,000 from the policy, replaced the funds within a few days, and then repeated the process a few days later.

- **Insurance fraud.** A depository institution reported applications for life insurance policies by three individuals from a foreign jurisdiction. The filer suspected something was wrong because the individuals obtained identification and opened bank accounts on the same dates that they submitted the insurance applications. The subjects were upset that the policies would not be issued on the day of the application.

- **Terrorist financing.** A depository institution reported an incident it believed could be terrorism related. A foreign national applied for a life insurance policy. During the application process, the subject asked if the policy would pay if the insured committed suicide.

- **Money laundering.** A depository institution suspected that cash deposited to a customer's account originated from illegal drug sales proceeds. Funds from five debits from the customer's account, totaling over $250,000, were sent to an insurance company.

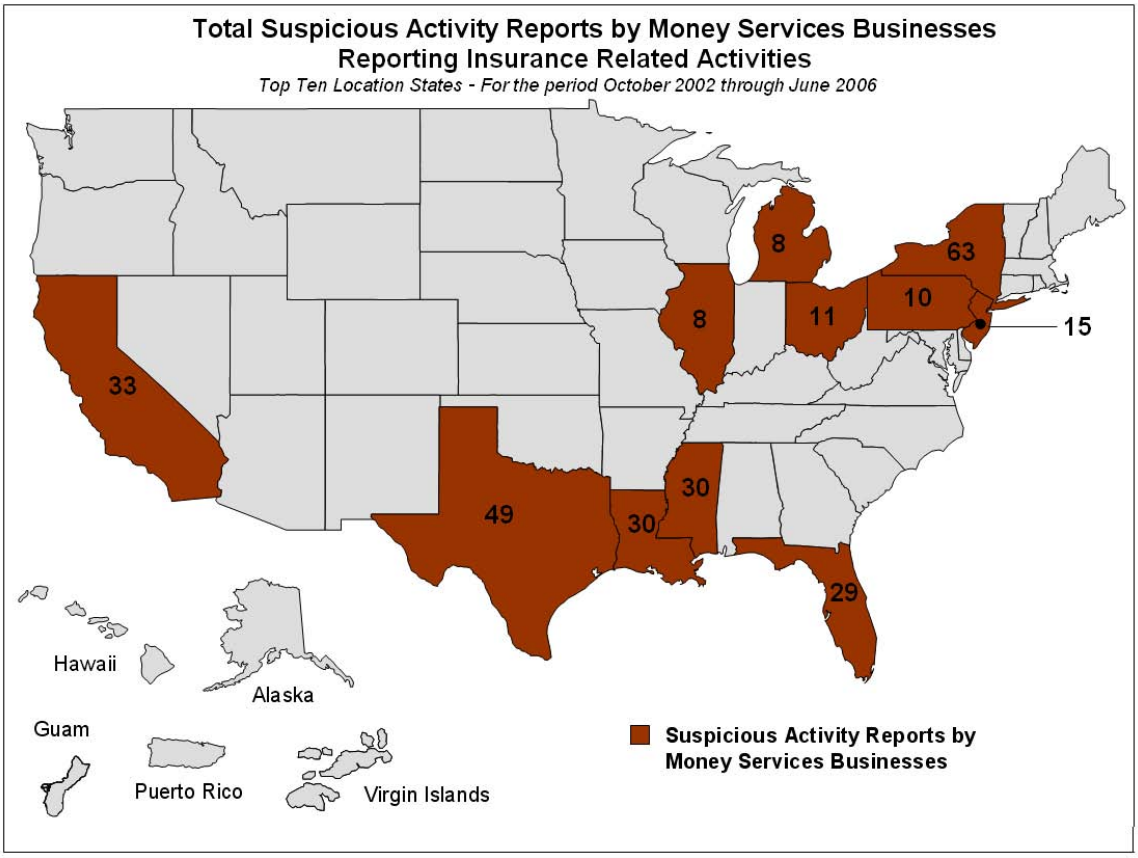
- **Pre-Paid insurance policies.** Insurance filers reported possible methods of money laundering using pre-paid insurance policies. One report described the deposit of over $10,000 into a pre-paid insurance policy. The policy owner then requested a loan against that policy in an amount under $10,000. Another report described multiple subjects paying advance insurance premiums and then requesting refunds of the pre-paid amounts. A third report described a subject who sent 21 checks from different businesses (all with the same address) totaling over $40,000 to pre-pay premiums on his life insurance policy. The annual premium was over $10,000.

Suspicious Activity Reports by Money Services Businesses

FinCEN's analysis of SAR narratives filed by money services businesses (MSBs) using the designated insurance search terms identified 341 records.

Exhibit 2 depicts the location and total volume of MSB SARs by the top eleven states where these reports were filed.

Exhibit 2



Money Services Business SAR Narrative Sampling

A sample of 259 MSB SAR narratives identified the following activities:

- Forty-nine percent of SARs filed reported the suspicious use of money orders that were made payable to insurance companies. The purchase of these money orders appeared to have been structured in order to avoid BSA reporting requirements.

- SARs also reported the use of official checks that were made payable to insurance companies. Fifteen percent of the SARs filed reported the structured purchase of official checks.

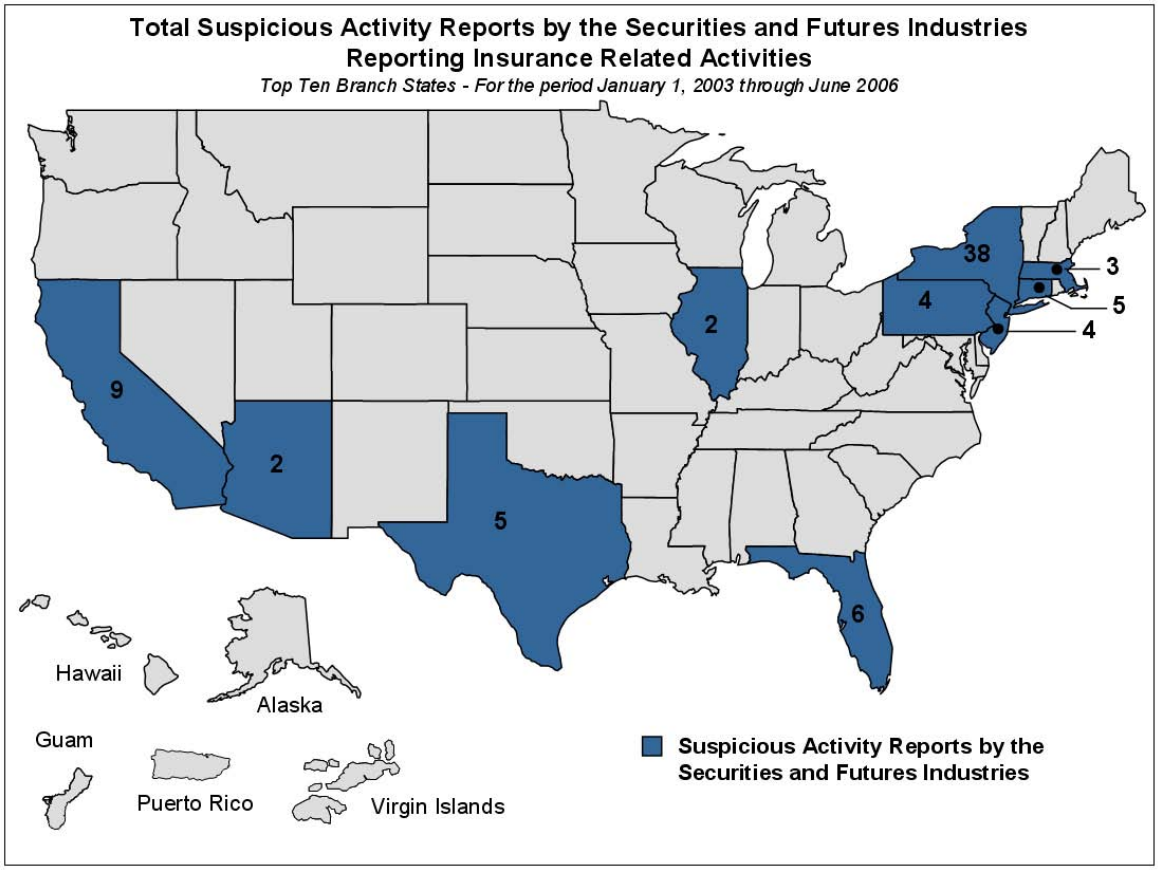
- A small number of SAR filings reported the receipt of multiple transactions on the same day at the same agent location. These transactions appeared to involve structuring.

Suspicious Activity Report by the Securities and Futures Industries

Following are the results of analysis of SAR narratives filed by securities and futures industries using the designated insurance search terms, which identified 373 records. FinCEN analysts reviewed 277 of these narratives.

Exhibit 3 depicts the location and total volume of securities and futures industries SARs involving insurance activities by the top ten states where these reports were filed.

Exhibit 3



Securities and Futures Industries SAR Narrative Sampling

Suspicious activity reported in the sampled narratives follows:

- Filers reported customers using numerous money orders to initially purchase insurance policies or annuities or to pay annual premium payments. Customers also used money orders to repay loans taken against their policies. One filer indicated that it was unusual to receive money orders as payments and that insurance premiums typically were paid by personal or business checks or electronic funds transfers. Activities described in the narratives included subjects:
    - Purchasing money orders from more than one vendor;
    - Purchasing money orders from different tellers at the same bank on the same day. Some money orders were also purchased at two or more of a bank's branches, usually on the same day; and
    - Purchasing money orders prior to taking out loans against insurance policies. The money orders were then used to repay the loans.
- Filers reported suspicious actions by applicants during the insurance or annuity application process. Actions by applicants included:
    - Providing false information (e.g. name, social security number, citizenship, etc.) or providing information which could not be verified;
    - Failing to produce proper documentation to substantiate the information on the application. In some instances, upon being questioned about the information provided, applicants rescinded their applications;
    - Insisting that a rush should be placed on the application process; and
    - Asking questions or making comments that raised the filer's suspicion.
- Filers reported insurance agents, broker/dealers and/or registered representatives of insurance companies engaging in illegal activities concerning customer's insurance products. Insider actions by agents, broker/dealers or representatives included:
    - Opening accounts in customers' names and making insiders the account beneficiaries. The named account owners usually were unaware of the policies. In some instances, representatives

changed the beneficiary information on clients' policies to make themselves the beneficiaries;

- Taking a portion of the funds, usually cash, given by customers for premium payments and depositing the funds into the insider's own bank accounts for personal use. One filer reported a registered representative for accepting cash from a family friend for the purchase of a fixed annuity. The cash was deposited into the representative's personal account so that the bank could prepare a cashier's check as payment for the annuity purchase;
- Paying premiums on customers' (e.g. friends, family, unrelated clients) accounts with the insider's own money;
- Engaging in Advance Fee Fraud scams. One representative sent e-mails from his employment account soliciting and offering to provide assistance to individuals involved in these types of scams;
- Forging the signatures of clients on forms; and
- Submitting premium payments for policies, using money orders or personal checks, on behalf of clients from organizations or individuals that were not named as the intended premium payers as part of the application process and where no insurable or financial interest was apparent.

- A securities firm filed ten reports on immigrants associated with an insurance agent who sold numerous policies to these immigrants and their families. The immigrants primarily traveled from one location to another, working in service jobs and earning minimal salaries. The filer believed the agent assisted the individuals in their pursuit of legal status in the United States. The agent, of the same nationality, admitted falsifying employment information on applicants; assisting in paying the individuals' premiums by converting cash into money orders; and accepting premium payment from third parties, usually family members but also other unrelated parties. The filer believed that none of the insured immigrants had legal status in the United States.
- Filers reported large dollar amounts wired in and out of accounts involving annuity life accounts. Some of the wire activity involved annuity accounts in foreign jurisdictions.
- Filers reported customers purchasing numerous policies or annuities, usually with large amounts of cash and then taking advantage of the

free-look periods to cash out the instruments. Filers indicated that this activity was consistent with money laundering activities, although it may also have been a legitimate exercise of consumer rights.

- Filers reported customers using structured cash payments to purchase annuities, pay premiums or repay loans taken out against a life insurance policy. Filers stated that the activity might indicate that its customers may have been trying to circumvent BSA reporting requirements. Reports also were filed for large cash deposits as well as when the filer was unable to determine the source of funds.

- Filers reported customers using multiple payment methods, (e.g., cashier's check, personal check, money order, etc.) to pay premiums. One filer indicated that it was unusual to see multiple payment forms used in paying premiums.

- Filers reported several customers structuring check deposits (teller check, bank check, traveler's check, cashier's check, and personal check) to pay for premiums, fund annuity accounts and repay loans against life insurance policies.

- Filers reported customers treating annuity accounts like savings accounts. Customers deposited large sums of money into their annuity accounts and then made withdrawals, which sometimes left the account with a zero balance. On numerous reports, customers provided what the filers considered vague explanations for the activity. Deposits started again only to be followed by withdrawals. Similarly, customers were reported for opening life insurance policies and after a period of time, making numerous partial surrender/withdrawals with corresponding premium payments.

- One filer reported an applicant for making frequent small dollar premium remittances over a period of less than one year for life insurance policies that had yet to be issued. Numerous small dollar refund checks issued back to the applicant were never cashed. The applicant blamed it on an erroneous address and asked for the refund in one lump sum by wire, totaling thousands of dollars. Similarly, filers reported customers sending in larger payments than the expected amount due, resulting in refund checks issued back to customers.

- Filers reported customers moving money between multiple products. Customers opened policies and then after a short period of time, asked for a surrender/withdrawal and used the funds to open another policy, sometimes with the same filer or with another policy issuer.

- Filers reported customers making substantial surrender/withdrawals from either an annuity or life insurance policy. The filers found it suspicious when customers expressed little or no concern about the surrender/withdrawal charges assessed on the investment.

- Filers reported customers depositing money into several insurance policies with various insurance companies.

- Filers reported numerous instances when filers' representatives, while conducting routine reviews of clients, uncovered news articles concerning law enforcement investigations, arrests, indictments or guilty pleas for illicit acts, (e.g., money laundering, pornography, organized crime, racketeering, etc.), which involved the individuals. In some instances, a news article initiated a client review. Filers indicated reviews attempted to ascertain if clients used any funds derived from the illicit activities to pay insurance premiums.

- One filer reported an oil and gas company with ties to the United Nations Oil-For-Food Program. This company had established an annuity contract as a funding vehicle for its 401(k) profit sharing plan. The filer submitted the SAR due to the company's association with the United Nations Oil-For-Food Program coupled with the indictment of the company's president.

- One filer reported an insurance agent due to the agent's association with an individual tied to a charity with known connections to terrorist financing.

Section 3 - Law Enforcement Cases

This section of *The SAR Activity Review* affords law enforcement agencies the opportunity to summarize investigations where SARs and other BSA information played an important role in the successful investigation and prosecution of criminal activity. This issue includes an example of how the Federal Bureau of Investigation is using BSA data to investigate terrorist financing cases, as well as new case examples from federal, state and local law enforcement agencies. Additional law enforcement cases can be found on the FinCEN website, www.fincen.gov, under the Law Enforcement/LE Cases Supported by BSA Filings link. This site is updated periodically with new cases of interest.

Contributing Editors: Jack Cunniff, James Emery, Jacob Thiessen.

Law Enforcement Contributors: The requirements of confidentiality relating to SARs precludes FinCEN from associating the name of all of the law enforcement agencies that made creative, appropriate use of SAR information with the cases highlighted in this issue. However, in addition to the investigating agencies noted at the end of each case, the following agencies contributed cases to this issue: The U.S. Attorney's Offices for the Northern District of California; the District of Connecticut; the Northern District of Georgia; the Northern District of Ohio; and the Eastern District of Virginia; the Connecticut, New York and Virginia State Police; and the Manhattan District Attorney's Office.

Post 9/11 SAR Leads to Guilty Plea in Money Laundering and Illegal Transfer of Funds to Iran Investigation

One individual has pled guilty to multiple counts of money laundering, filing false tax returns, failing to file Reports of Foreign Bank and Financial Accounts (FinCEN Form TD F 90-22.1) and illegally transferring funds to Iran. The plea agreement also requires forfeiture of over half a million dollars. Sentencing is pending. Law enforcement officers learned about the activity and initiated the investigation because of a Suspicious Activity Report (SAR) that a brokerage firm filed in October 2001.

The individual is a naturalized U.S. citizen originally from Iran. In 2002, Immigration and Customs Enforcement (ICE) and the Internal Revenue Service (IRS) executed a search warrant at his residence where the seized evidence revealed strong support for the current Iranian fundamentalist regime and the late Ayatollah Khomeini.

The individual pled guilty to multiple counts of illegal money transfers to Iran. Pursuant to the International Emergency Economic Powers Act (IEEPA), former President Clinton signed Executive Orders prohibiting any new investments in Iran by a U.S. person. Violating IEEPA carries a potential penalty of a $250,000 fine, 10 years imprisonment, or both.

In order to disguise the illicit nature of the transfers, the individual sent several million dollars from his brokerage account to banks in foreign jurisdictions, which in turn transferred the funds to a bank in Iran between 2001 and 2002, in violation of the embargo prohibiting new investments in Iran. When the brokerage firm learned that the ultimate destination of the funds was Iran, it refused to execute any further transfer orders for the individual, and advised the individual that sending funds to Iran was illegal. The individual then on several occasions used alternative remittance systems to transfer more than $100,000 from the United States to Iran. The individual's guilty plea included violations of IEEPA.

The money laundering violations resulted from transfers and attempts to transfer over half a million dollars from the United States to foreign jurisdictions with the intent to promote a specified unlawful activity, that is, IEEPA violations. Sometimes referred to as the "clean money laundering" provision, there is no requirement that the funds utilized be illegally obtained.

The case began in the days immediately following the September 11 terrorist attacks. Through SARs filed by the securities and futures industries, the Federal Bureau of Investigation identified transactions whereby the individual had sent a substantial amount of money to foreign jurisdictions early in 2001, and determined that this activity was not consistent with the individual's normal pattern of transactions. When asked about the activity, the individual admitted that the funds were destined for Iran.

(Investigating Agencies: Federal Bureau of Investigation; Immigration and Customs Enforcement; Internal Revenue Service – Criminal Investigation Division; U.S Attorney's Office.)

SUSPICIOUS ACTIVITY REPORT INITIATES INVESTIGATION OF MAJOR INTERNATIONAL NARCOTICS ORGANIZATION UTILIZING THE BLACK MARKET PESO EXCHANGE

In 2006, the United States Attorney for the Northern District of Georgia announced "Operation Rainmaker," a major, multi-national federal drug and money laundering investigation initiated by ICE-Atlanta that culminated with 24 arrests in the United States and Colombia. The investigation discovered that a money laundering and drug trafficking organization

allegedly laundered drug proceeds through the Black Market Peso Exchange (BMPE). During the course of the investigation more than $7.5 million in alleged drug proceeds, more than 24 kilograms of cocaine, and more than 2 kilograms of heroin were seized. The multi-agency case began when a Suspicious Activity Report (SAR) review team identified a potential lead. The SAR narrative noted that a suspect company had an unexplained increase in cash activity and had deposits of sequentially numbered money orders. In addition, the company had a series of suspect wire transfers, both in and out of the account.

As seen in previous instances of the BMPE, members and affiliates of the organization picked up the proceeds from drug sales in U.S. dollars in a number of U.S. cities. An equivalent amount of Colombian pesos would then be delivered to the organization in Colombia. Following that delivery, in some instances the dollars were delivered to undercover agents, who deposited the funds in various financial institutions, primarily in the United States, where the funds were used to pay for textiles being exported legally to Colombia.

A federal grand jury indicted thirty individuals for their participation in the scheme. The defendants are charged with conspiring to launder drug proceeds, conspiracy to distribute controlled substances, and various other money laundering charges. They face potential penalties of up to life imprisonment.

Colombian authorities arrested eight of the defendants and the United States will seek their extradition. ICE and IRS agents arrested sixteen of the remaining 22 defendants. Some were already in custody. The remaining six defendants charged in the indictments are fugitives.

(Investigating Agencies: Immigration and Customs Enforcement; Internal Revenue Service – Criminal Investigation Division; U.S. Attorney.)

PROACTIVE SAR QUERY LEADS TO STRUCTURING CONVICTION

In early 2006, a U.S. Attorney's Office secured guilty pleas from two businesses for evading Bank Secrecy Act (BSA) reporting requirements by structuring deposits. The presiding judge sentenced the businesses to unsupervised probation, and as part of the agreement, the businesses agreed to forfeit approximately half a million dollars. The amount of restitution equals the amount of money structured in various transactions. The defendants chose to plead guilty to the structuring charge rather than face charges for failure to file Form 8300s.[13]

13 FinCEN/IRS Form 8300, "Report of Cash Payments Over $10,000 Received In a Trade or Business."

The indicted firms and their owners structured transactions to avoid scrutiny following the September 11 terrorist attacks. A financial institution noticed the structured transactions and filed a SAR.

A specialized unit of the Baltimore/Washington High Intensity Drug Trafficking Area[14] initiated the investigation after reviewing SARs filed on businesses and individuals in the area. Investigators discovered that, in addition to structuring transactions, the firms failed to file Form 8300s for sales over $10,000 as required by the BSA.

BSA records provided a number of leads in the case. Financial institutions filed SARs on the defendants and Currency Transaction Reports (CTRs) and Reports of International Transportation of Currency or Monetary Instruments (CMIRs or FinCEN Form 105) on related transactions.

(Investigating Agencies: Internal Revenue Service -- Criminal Investigation Division; state police; U.S. Attorney's Office.)

BSA RECORDS HELP INVESTIGATORS BREAK MULTI-MILLION DOLLAR RACKETEERING SCHEME IN THE TRASH HAULING INDUSTRY

In late 2006, a United States Attorney's Office secured a guilty plea in a major racketeering case involving trash collectors and organized crime. The multi-state investigation included ten federal, state, and local agencies and resulted in a multiple-count indictment. Hundreds of BSA records document transactions conducted on behalf of the subjects.

The defendant pled guilty to one count of conspiring to violate the federal Racketeer Influenced and Corrupt Organizations Act (RICO).

According to court documents and statements, the defendant admitted to conspiring to perpetuate a "property rights system" that allowed participating trash removal companies (or "carters") to inflate their prices and leave waste removal customers with no other options. In this scheme, which was principally directed at commercial and municipal customers, participating carters agreed to quote inflated prices to customers controlled by other carters. The defendant admitted to agreeing to respect the unwritten rules of the property rights system. The scheme was enforced by extortion and threats by businesses owned and controlled by persons allegedly associated with La Cosa Nostra.

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14 The Anti-Drug Abuse Act of 1988 and the ONDCP Reauthorization Act of 1998 authorized the Director of The Office of National Drug Control Policy (ONDCP) to designate areas within the United States which exhibit serious drug trafficking problems and harmfully impact other areas of the country as High Intensity Drug Trafficking Areas (HIDTA).

In support of the investigation, the Federal Bureau of Investigation said they accessed and used several hundred relevant BSA records, including SARs and Casino CTRs. The BSA information helped prove probable cause for the arrests and the seizures. Additional arrests and seizures are expected.

(Investigating Agencies: Federal Bureau of Investigation; Internal Revenue Service --Criminal Investigation Division; U.S. Department of Labor – Office of the Inspector General; State Police; U.S. Marshals Service; Drug Enforcement Administration; State Department of Correction; Local Police Departments; U.S. Attorney's Office.)

ONE HUNDRED SARS HELP OUTLINE SIZE AND SCOPE OF FRAUDULENT MORTGAGE ELIMINATION SCHEME

In 2006, a Federal grand jury indicted several businesses and individuals, including mortgage brokers, on numerous charges of mail fraud, bank fraud, conspiracy to commit mail, wire and bank fraud and contempt of court in a nationwide scheme that purported to eliminate the mortgages of thousands of homeowners. The perpetrators, working largely through the Internet, offered to eliminate mortgage debt for fees amounting to thousands of dollars, and then fraudulently obtained equity loans, most of the proceeds of which went to the defendants. As the number of victims spread, various news articles and trade publications published information about the scheme and the defendants. With this increased awareness, financial institutions began filing SARs on the scheme. These SARs have helped investigators identify individuals and properties affected by the fraud.

As part of the mortgage elimination scheme, false title documents were recorded, allegedly to transfer a lender's secured interest in the property, even though the mortgage on the property had not been paid. The fraudulently obtained free and clear titles were then used to obtain hundreds of thousands of dollars in home equity loans from independent lenders.

The Assistant U.S. Attorney on the case warned that homeowners should be cautious of offers that sound too good to be true, noting that the alleged scheme violated mortgage agreements between the lender and borrower and tainted property titles by recording false title documents.

The scheme's appeal rests on the argument that mortgage loans are not legally enforceable, and, therefore, that borrowers are not legally responsible for re-paying their mortgage loans. Defendants claim that when a borrower gives the bank a promissory note in exchange for a loan, the bank never fronts any "real" money for the loan, so the bank puts nothing into the transaction. As a result, under defendants' theory -- sometimes called the "vapor money" theory -- no enforceable debt accrues.

Normally, a single institution might file numerous SARs on an individual or organization for repeated suspicious activity. In this case, the widespread notoriety of the defendants has made it easier for financial institutions to recognize the fraudulent scheme. As the scheme and the perpetrators have become increasingly well-known, financial institutions have been filing increasing numbers of SARs. Since 2004, banks and others have filed at least 100 SARs on transactions to eliminate mortgage debt by the defendants dating back to 2001. The large number of SARs filed in connection with this case provides a rare opportunity for law enforcement and greatly contributes to law enforcement's ability to determine the size and scope of the fraud.

(Investigating Agencies: Federal Bureau of Investigation; U.S. Attorney's Office.)

BANK MANAGER STEALS HUNDREDS OF THOUSANDS OF DOLLARS: SCAM EVEN TARGETS SISTER

In a case initiated based on the filing of SARs, a bank manager pled guilty to a nine-year fraud scheme to steal over a quarter of a million dollars from accounts of customers, including the bank manager's sister, identified by the bank manager as individuals or businesses that would not miss the money stolen. In order to buy marijuana, lottery tickets and designer clothing, the bank manager forged customers' signatures on checks and took out loans in their names. The bank manager had loan documents and bank statements mailed to a post office box or to a home address.

The defendant was sentenced to two years in jail and three years of supervised release and was required to pay full restitution. The defendant has repaid a portion of the stolen money and the bank has reimbursed its customers.

(Investigating Agency: Internal Revenue Service -- Criminal Investigation Division.)

INSURANCE EXECUTIVE SENTENCED IN EMBEZZLEMENT SCHEME

In a case initiated based on the filing of a SAR, a former high-ranking officer of an insurance firm, who was charged in a multiple-count federal indictment including counts of embezzling insurance premiums, falsifying records and filing false tax returns, has been sentenced to almost two years in prison for embezzling over $100,000 and filing a false tax return. The defendant pled guilty to one count of embezzlement and one count of filing a false federal tax

return. The defendant also admitted to issuing company checks to himself and concealing the embezzlements. He said he used the money to pay gambling debts. The defendant has paid back all of the embezzled funds.

(Investigating Agencies: Federal Bureau of Investigation and Internal Revenue Service -- Criminal Investigation Division.)

FORMER BANK EXECUTIVE PLEADS GUILTY TO STEALING FROM THE BANK

In a case initiated based on the filing of a Suspicious Activity Report, a former investment officer for a bank was sentenced to two years in prison and three years supervised release and was ordered to make restitution of almost half a million dollars. He pled guilty to embezzlement by a bank officer and money laundering for his participation in a fraud scheme.

Court records showed the defendant used his authority as a bank officer to obtain funds on behalf of other organizations, some of which he deposited into his personal account. He left out certain identifying account information when printing internal bank documents. He also was engaging in suspicious transactions related to internet gambling. Because he was a bank officer, none of his transactions were questioned by lower level employees. A routine review by a company auditor discovered the thefts and, after being confronted with evidence, the defendant admitted to the thefts, saying that he had a gambling addiction. He was then fired by the bank.

(Investigating Agencies: Internal Revenue Service -- Criminal Investigation Division and the Federal Bureau of Investigation.)

CHECK KITE NETS TWO

The Federal Bureau of Investigation opened an investigation based upon information in SARs filed by banks indicating significant check kiting activity. The subjects operated a number of small businesses in the area. Over the course of approximately two years, the subjects conducted a check kite utilizing over twenty accounts at several banks, standard checks, depository transfer checks, and Automated Clearing House (ACH) electronic funds transfers. During the month prior to the kite being discovered, almost $35 million in checks had crossed among the banks involved. Upon discovery, the victim banks suffered several million dollars in losses. The businesses subsequently failed leaving approximately 100 people unemployed and unpaid for their last week of work.

The subjects and their bookkeeper were indicted on multiple counts of bank fraud; a superceding indictment charged more than 100 counts of bank fraud, conspiracy and money laundering. In 2006, the main subjects pled guilty to one count of conspiracy to commit bank fraud. Per the plea agreement, charges against the bookkeeper were dismissed. The subjects will be sentenced later in the year.

(Investigating Agency: Federal Bureau of Investigation.)

BSA DATA INSTRUMENTAL IN DRUG CASES

A Drug Enforcement Administration (DEA) investigation into a local cocaine and marijuana trafficker involved more than one cooperating source who knew of the trafficker but had no biographical data. A SAR was located that identified the trafficker, provided biographical data and notations that the subject had conducted frequent transactions where smaller bills would be exchanged for larger bills and, on occasion, the money smelled like marijuana.

A recent drug and money laundering prosecution involving methylenedioxymethylamphetamine (MDMA or Ecstasy) traffickers and their use of several money remitters to move drug-related proceeds around the world resulted in the introduction into evidence that none of the defendant remitters ever filed a CTR as required. The government was able to establish that frequent deliveries of several hundreds of thousands of dollars would be delivered by couriers in cardboard boxes to the remitter sites, after which fictitious invoices and clients would be created to account for the large receipt of currency.

(Investigating Agency: Drug Enforcement Administration.)

SAR IDENTIFIES LINKS IN ATF CASES

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has a case that involves multiple illegal activities taking place in a number of liquor stores. Violations include the sale of stolen firearms by a non-licensee, money laundering, contraband cigarette trafficking, violations of state liquor, sales tax and income laws, violations of federal tax laws and possible dealing in illegal drugs. Research was requested on six liquor stores and twelve individuals. As a part of this research, a SAR revealed an additional four individuals and three stores which appear to be involved in this case. The research produced multiple financial documents, on different individuals, for deposits only into one or more accounts at a variety of financial institutions.

(Investigating Agency: Bureau of Alcohol, Tobacco, Firearms and Explosives.)

Section 4 - Tips on SAR Form Preparaton & Filing

Suspicious Activity Report Form Completion Tips—A Trend Analysis of Frequently Asked Questions Received on FinCEN's Regulatory Helpline

As we have done in previous issues, FinCEN has reviewed recent calls received on its Regulatory Helpline[15] for the most frequently asked questions about suspicious activity reporting. From January to December 2006, FinCEN responded to almost 1,200 calls from industry, government, and other callers requesting suspicious activity reporting guidance. This article addresses the three most frequently asked questions received during that period about completing Suspicious Activity Report forms.

Contributors: Alan Cox, Susan Lang, Betsy Maesen.

1) Suspicious Activity Reporting for International Lottery Scams

FinCEN received a number of questions regarding the filing of Suspicious Activity Reports (SARs) in connection with international lottery scams.[16] Although there are several variations of the international lottery scam, callers to the Regulatory Helpline have most frequently reported a version involving monetary instruments and overseas wires. Generally, international lottery scam operators will contact individuals via the Internet, telephone, or mail and announce that the individuals have won cash prizes in a foreign lottery. The individuals also are informed that, before they can collect their winnings, they must pay certain fees, taxes, or other expenses. To "assist" with payment of these miscellaneous fees, the lottery scam operators will mail to the individuals checks or other monetary instruments, with instructions to cash the instruments. The individuals are told that, once the

15 FinCEN's Regulatory Helpline (800-949-2732) is the primary means for the financial community to obtain regulatory guidance and answers to specific questions relating to the Bank Secrecy Act.

16 The Federal Bureau of Investigation (FBI) recently posted an advisory regarding foreign lottery scams on its website (http://www.fbi.gov/page2/aug06/lotto_scams080906.htm).

instruments are cashed, the proceeds must immediately be wired to an entity or person located in another country. The lottery scam operators claim that when the proceeds have been received, the lottery scam operators will pay the individuals the supposed winnings. As is the case with most scams of this nature, there is a great sense of urgency expressed by the scam operators and the individuals are exhorted to "act now" in order to receive, and not forfeit, the winnings.

Financial institutions typically become aware of these scams when the individuals seek to deposit or cash the checks or monetary instruments or wire the proceeds. Callers to the Regulatory Helpline have indicated that in some cases the monetary instruments presented clearly are bogus, e.g., containing obvious spelling errors or poorly created seals. In some instances, financial institutions have declined to negotiate the monetary instruments and advised the customer that the instruments are counterfeit or bogus. In other instances, the monetary instruments presented appear authentic and are cashed for the customer; later, however, the monetary instruments are returned as non-negotiable and either the bank or the customer suffers a monetary loss.

Although FinCEN previously has provided guidance regarding the filing of SARs on other types of scams, financial institutions have sought clarification as to whether that previously issued guidance applies equally to international lottery scams. In The SAR Activity Review – Trends, Tips & Issues, Issue 7 (August 2004), FinCEN advised financial institutions that it was unnecessary to file SARs on "4-1-9" (advance fee fraud) scams if there was no monetary loss. However, FinCEN also advised financial institutions that they should consider filing a Suspicious Activity Report if there was a monetary loss to the financial institution or if the scam involved other illegal activity. In The SAR Activity Review – Trends, Tips & Issues, Issue 10 (May 2006), FinCEN reiterated this guidance for "third party receiver of funds" scams. The preceding guidance, given with regard to "4-1-9" and third party receiver of funds scams, applies to international lottery scams as well.[17]

It may be difficult to clearly identify suspects in connection with international lottery and similar scams. Callers to the Regulatory Helpline often indicate they have listed their customers as suspects on related SAR forms; however, generally, the customer should not be considered a suspect unless there is reason to believe that the customer knowingly cashed counterfeit monetary instruments or was otherwise complicit in the scam. In most circumstances, the customer is a victim of the scam, and unaware that participation in

17 If counterfeit instruments are received via the U.S. postal system, financial institutions may report that to the U.S. Postal Inspection Service. If contact was initially made via the Internet, a complaint may be filed with the Internet Crime Complaint Center at http://www.ic3.gov. Moreover, individuals who have been victimized by these scams may contact their local FBI office.

foreign lotteries is illegal or that the checks or other monetary instruments that they have received are counterfeit. Additionally, the names (such as the payee name) that appear on such checks or other monetary instruments typically are phony and do not indicate real suspects; however, if a Suspicious Activity Report is completed, it is recommended that the payee name be included in the Suspect/Subject field of the Form.

2) Date to Use When Correcting a Previously Filed Suspicious Activity Report

Several financial institutions have contacted the Regulatory Helpline seeking clarification of the preparation date to be used when completing a SAR being filed to correct a previously filed report. When correcting a previously filed Suspicious Activity Report, the date of preparation should reflect the date of the current filing, not the date on which the prior report was prepared or filed. For example, a financial institution prepares and files an original SAR on May 15, 2006. The institution later discovers an error that must be corrected. On June 13, 2006, the institution completes a Suspicious Activity Report correcting the previously filed report. The date of preparation on the new report should be June 13, 2006 (not May 15, 2006).

3) Individual Tax Identification Numbers and Social Security Numbers

Q: Must a financial institution file a SAR if a customer provides an individual tax identification number (ITIN),[18] and in the course of its due diligence the institution discovers that the same customer has in the past used a social security number (SSN)?

A: Because an individual cannot have both an ITIN and an SSN, the above situation could be an indicator of identity theft or fraud. The institution should review such circumstances carefully, and a SAR must be filed if applicable thresholds are met and if the institution knows, suspects, or has reason to suspect a possible violation of law or regulations. Financial institutions also voluntarily may file a SAR in instances where applicable thresholds are not met, but where similar suspicions arise.

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18 An ITIN is a nine-digit number issued by the U.S. Internal Revenue Service (IRS) to individuals who are required for U.S. tax purposes to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain, a social security number (SSN). See IRS Discussion of ITINs at http://www.irs.gov/individuals/article/0,,id=96287,00.html.

Section 5 - Issues & Guidance

This section of The SAR Activity Review discusses current issues raised with regard to the preparation and filing of SARs. This section is intended to identify suspicious activity reporting-related issues and provide meaningful guidance to filers. In addition, it reflects the collective positions of the government agencies that require organizations to file SARs.

Contributors: Jeffrey Pratt, Michael Vallely, Mandie Aubrey, Stephen Brown, Barbara Bishop.

Suspicious Activity Reports: Not Just for Law Enforcement

FinCEN's mission, in simplest terms, is to protect the national security and safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering and other illicit activity. Using the authority of the BSA, we strive for an appropriate level of transparency in the U.S. financial system so that illicit activities can be deterred, detected, and prosecuted. While no one disputes the merits of protecting the financial system from abuse, everyone understands that there are costs and benefits associated with the imposition of any kind of requirement, both for the private sector and for the government. FinCEN's role is to strike an appropriate balance. The burdens imposed on the financial system have to be justified in light of the benefits gained. The transparency we strive for must be achieved while protecting the privacy of individuals as well as the equities of the institutions providing financial information.

One of our most urgent priorities is to better communicate the benefits of regulatory recordkeeping and reporting requirements and the use made of collected data. To help achieve our goal, this article, the first in a series, will provide an overview of the many and varied uses of SARs and the growing number of analytical tools at our disposal.

It is important to acknowledge that not every piece of data has to relate to a particular law enforcement action to be useful. Much of our analytical work depends on how the data fits together as a whole. Law enforcement and intelligence communities use SAR data in combination with other information collected through their investigations to link individuals and their activities, hinder activities, and prosecute the perpetrators. SARs have helped law enforcement uncover webs of criminal activity by linking ongoing investigations in multiple jurisdictions, as well as identifying activity associated with geographic areas of interest.

However, the value of data collected from SARs and other BSA data extends beyond simply alerting law enforcement to possible money laundering activities, terrorism financing, or other violations of law. The information collected is used to improve the effectiveness of SAR reporting, measure the impact of regulations on a particular industry, identify emerging trends and industry vulnerabilities, and determine appropriate action for non-compliance.

Law Enforcement Support

With sophisticated data mining capabilities and strategic analysis, FinCEN can focus on specific reporting patterns and issues or analyze SAR data on a wider scale. FinCEN has used these capabilities to identify patterns in a geographic area, helping law enforcement identify "hot spots" where they can focus their resources. Access to this type of information can alert law enforcement to potential problems in that area and help them allocate their resources accordingly.

FinCEN has also partnered with foreign Financial Intelligence Units to share knowledge and information about money laundering and terrorist financing. One example of this global cooperation occurred after the Madrid bombings in March 2004. A Financial Institution Hotline tip received after the bombing led to an investigation of wire transfers in the U.S. and abroad conducted by two individuals thought to be suspects. The resulting SAR led to an exchange of information between FinCEN and its Spanish counterpart.

Through calls received on FinCEN's Financial Institution Hotline and the work of the Counter Terrorism SAR Review Team, FinCEN's Office of Law Enforcement Support helps expedite notification to law enforcement of suspected terrorism related activities by reviewing SARs and proactively developing cases for referral to law enforcement agencies. The team is knowledgeable about geographic regions and interpreting data to recognize patterns and trends and identify related activities. In analyzing SARs for potential terrorism financing activities, key word searches are performed to identify potential indicators or certain geographic areas that have been identified as linked to terrorism financing. Indicators of terrorism financing activities may be obvious, such as attempted transactions involving Hezbollah, but they are more likely to be identified through one of the standard classifications of money laundering, such as structuring. While the financial institution may identify the suspicious activity as structuring, an underlying narrative that reveals information about the flow of the funds or identifies a particular geographic area may indicate terrorist financing activity to FinCEN or other analysts.

Identifying suspicious activity, and providing support to law enforcement, is critical to FinCEN's mission to safeguard the nation's financial network.

The ability to analyze data to identify issues, trends and patterns in SAR reporting, and educate financial institutions and regulatory partners, is equally critical to our mission. The information gained through SARs is key to carrying out that mission.

Regulatory Analysis

The work done by FinCEN's Office of Regulatory Analysis is critical to administering the Bank Secrecy Act. Their work enables the agency to identify financial institutions with deficiencies in their SAR filings; understand emerging issues and trends; identify new methodologies; and shape the agency's strategic planning. Through robust data mining capabilities, FinCEN can analyze SAR filings for a particular financial institution, type of activity, or geographic area. FinCEN also monitors the quality of data by focusing on the SAR forms' critical fields. This type of analysis identifies institutions with filing problems, such as missing information or incomplete narratives. Analyzing data to look for key words in the narratives also helps identify new issues or trends. When conducting a study of money services businesses, for example, analysts might search narratives for key words such as "unregistered" or "unlicensed." Through further analysis of the SARs that matched on these key words, analysts can focus on those related to MSBs to look for compliance and money laundering and terrorist financing trends, patterns and vulnerabilities.

FinCEN has recently begun to go public with some of its own analytical work based on BSA information, issuing studies on mortgage loan fraud, use of shell companies in money laundering, and money laundering in the commercial real estate sector. Each of these was supported by data provided under the BSA by financial institutions. FinCEN intends to continue sharing, wherever possible, our analysis of BSA data to demonstrate the general utility of the data and the use of the data in pursuing specific offenders.

FinCEN analysts also perform comparative SAR samplings. This type of analysis enables FinCEN to uncover issues associated with a specific geographic area for trends and patterns related to both criminal activity as well as compliance issues. FinCEN also employs comparative SAR sampling to search for inconsistencies in reporting. This can reveal issues related to the nature of the activity reported. This type of analysis can also identify whether a particular financial institution is reporting activity that is being reported by other financial institutions in the area, and thereby help assess an emerging threat to that geographic area and provide targeted and proactive reporting to law enforcement and the intelligence communities.

When FinCEN issues new regulations that impact a particular industry, such as the recent rules for insurance companies, FinCEN analysts review

SAR activity before and after promulgation of the rules. This allows FinCEN analysts to determine the impact of the rule as well as assess the need for industry outreach. In conducting studies of a particular industry, FinCEN analysts review patterns and trends in the method of detection of suspicious activities employed by financial institutions. Analysts then conduct detailed reviews of SAR narratives to support their analysis and show the potential impact to or on a particular industry. Through this analysis, FinCEN can determine if the number of filings has changed, if they are being filed appropriately, and whether they are effectively identifying the risks and suspicious activity inherent in a particular industry.

BSA Compliance and Industry Outreach

FinCEN's Office of Compliance works with federal and state regulators to track performance as well as to identify and monitor institutions with significant BSA violations. During a compliance review of a financial institution, FinCEN works with regulators to analyze the appropriateness of an institution's SAR filings as a part of an overall assessment of its AML program. The ability to collect and analyze SAR data enables FinCEN and other agencies to provide detailed guidance to financial institutions, including targeted guidance to specific industries, and develop more effective compliance examinations. For example, targeted outreach to industries potentially at risk of being exploited by criminals, such as mortgage lenders and unregistered MSBs, has resulted from identifying trends in data.

FinCEN also conducts data quality studies to improve the quality of the SAR filings and gain information that can be used for industry guidance and outreach. In addition, the Office of Compliance studies SARs filed to look for errors in critical fields. These studies identify areas of the form that are being completed incorrectly, contain incomplete narratives, or indicate a potential software or electronic filing issue. Identifying filing problems helps the office evaluate changes that may be needed when a form is revised or for drafting an advisory or guidance to financial institutions to reduce the occurrences of the filing errors.

When making a determination of whether or not to take enforcement action, FinCEN looks at SAR data as part of its overall assessment of an institution to recognize patterns within the institution, such as the number, quality and timeliness of filings. Comparative analysis of SAR filings, such as whether there are sudden increases or reductions in filings, can identify emerging or potential problems and vulnerabilities.

Debt Elimination Schemes

From April 1, 2003 to March 31, 2006, depository institutions filed 416 SARs describing illegal consumer lending practices commonly known as debt elimination schemes. These schemes, when perpetrated successfully, can be financially devastating to consumers and can expose financial institutions to significant compliance and operational risks.

Most of the debt elimination schemes reported in SARs or described in other sources, such as court documents and news reports, claim to be able to eliminate or cancel various types of debt, including mortgages; credit card balances; student, auto and small business loans. The underlying fraudulent claim and inducement in these schemes is that a debt can be eliminated or canceled simply by paying someone a small fee relative to the amount of debt to be eliminated. Many of the scams have been marketed on Internet web sites designed to appear legitimate and sophisticated. The scams take various forms, including those that:

- falsely claim to pay the debt in some way;
- claim to transfer the debt to some wealthy benevolent entity that does not exist or that exists but does not have adequate financial capacity; or,
- falsely claim to have the debt declared invalid, either because the financial company is not permitted to lend money or because the documentation used by the lender is not valid.

The perpetrators of these schemes also frequently provide consumers and financial institutions with inaccurate or distorted information about applicable laws and the procedures to be followed for securing and paying off a loan. These schemes are not new, just the latest versions of the "up-front-fee" scam.[19]

Banks and other financial institutions should periodically review their anti-money laundering programs to ensure that appropriate policies and procedures are in place to detect and report debt elimination schemes. Anti-money laundering policies, procedures, systems and training programs

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19 All financial institutions are encouraged to review bulletins issued by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency and the Federal Deposit Insurance Corporation for more information on methods and techniques used in these schemes. See Supervisory Letter (SR) 04-3 (Jan. 28, 2004), www.federalreserve.gov/boarddocs/srletters/2004/sr0403; OCC Alert 2003-12 (Oct. 1, 2003), www.occ.treas.gov/ftp/alert/2003-12.doc; OCC National Bank Anti-Fraud Resource Center Consumer Information, www.occ.treas.gov/AntiFraudConsumer; FDIC Consumer News (Winter 2003/2004), www.fdic.gov/consumers/consumer/news/cnwin0304.

should take into account the unique risks posed by these practices. All of the requirements in applicable suspicious activity reporting regulations should be followed when reporting a suspected debt elimination scheme, including the minimum dollar thresholds for mandatory filing of a SAR.[20] Financial institutions that become aware of debt elimination schemes that do not meet applicable dollar threshold requirements are not required to file SARs but may do so voluntarily.

20 31 C.F.R. §§ 103.18 – 103.21; 12 C.F.R. § 21.11; 12 C.F.R. § 208.62; 12 C.F.R. § 353; 12 C.F.R. § 563.180; 12 C.F.R. § 748.

Section 6 - Industry Forum

In each issue of The SAR Activity Review, representatives from the financial services industry offer insights into some aspect of compliance management or fraud prevention that presents their view of how they implement the BSA within their institutions. Although the Industry Forum section provides an opportunity for the industry to share its views, the information provided may not represent the official position of the U.S. Government.

Suspicious Activity Reporting Issues Confronting the Insurance Industry

By Brian L. Mannion, Lead Counsel, Nationwide Mutual Insurance Company

Insurance companies are now subject to two of the three foundational concepts of the United States' anti-money laundering requirements – the development of an anti-money laundering program (AML Program) and the requirement to report suspicious activity (SAR). As the newest member of the family of financial institutions subject to the BSA regulations, our industry is working diligently to develop effective and efficient compliance programs. This article will provide insights on the insurance industry's challenges, as well as some suggestions on identifying and reporting suspicious activity.

The SAR Obligation

On May 2, 2006, FinCEN promulgated the suspicious activity reporting and AML Program regulations for insurance companies. Like most aspects of this subject matter, the obligations under these regulations are more complex than they appear on the surface. The insurance company SAR regulation is consistent with those applicable to other financial institutions. Generally, it requires the insurance company to develop procedures designed to detect and report suspicious activity involving money laundering and terrorist financing. Specifically, an insurance company is obligated to file a suspicious activity report whenever a transaction of at least $5,000 in funds or other assets is conducted or attempted by, at, or through the insurance company

and it knows, suspects, or has reason to suspect that the transaction (or pattern of transactions): 1) involves funds derived from illegal activity; 2) is designed to evade any requirement of the BSA; 3) has no business or lawful purpose; or 4) involves the use of the insurance company to facilitate criminal activity.[21]

Fortunately, the SAR regulation includes several definitions that limit its applicability. FinCEN has defined an "insurance company" to be any person engaged in the business of issuing or underwriting "covered products." A covered product includes an annuity contract, a permanent life insurance contract, or any insurance product that possesses a cash value or investment feature. The practical result is that the insurance company SAR regulation applies primarily to life insurance companies and not traditional property and casualty or health insurance companies.[22]

The regulation contains additional limitations on the scope of insurance products that must be reviewed for suspicious activity. Products that are offered to a group of persons but issued under a single contract are expressly excluded from the SAR regulation.[23] Therefore, group annuity and group life contracts are not required to be included within the scope of an insurance company's SAR process. This risk-based recognition of money laundering within the insurance world is very important as it allows the insurance industry to focus its limited resources on areas with more money laundering risk.

In addition to the definitional provisions noted above, the SAR regulation addresses two additional points that are unique to the insurance industry. First, it includes an exception from filing a SAR if the suspicious activity is associated with false or fraudulent information used to obtain a policy or make a claim (e.g. traditional insurance fraud). Again, this allows the insurance industry to focus on identifying and reporting suspicious activity that is indicative of money laundering or terrorist financing. The exception to the exception is that a SAR must still be filed if the false or fraudulent submission relates to terrorist financing or money laundering.

Second, the SAR regulation makes it clear that insurance companies are responsible for their agents (regardless of whether the agent is employed by the insurance company or an independent agent). Therefore, the SAR

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21 See 31 CFR 103.16(b)(2).

22 Placement of the insurance company definition only in the AML Program and SAR regulations is critical to the application of the safe harbor provisions found in the BSA because it allows all types of insurance companies to voluntarily file SARs and still receive the safe harbor protections (see 31 USC 5318(g)(3)) without subjecting the insurance company to all the obligations under the BSA.

23 See question 4 from the "Anti-Money Laundering Program and Suspicious Activity Reporting Requirements For Insurance Companies Frequently Asked Questions" found at http://www.fincen.gov/nrfaq10312005.htm.

process must be designed to address the activities of their agents and report associated suspicious activity detected by these agents. The regulation does permit insurance companies to partner with other financial institutions to make a joint filing of the suspicious activity. An issue the insurance industry is struggling to address is the integration of their agents into the AML Program and SAR regulations.

Agent Integration Issues

As described above, the SAR regulation requires insurance companies to develop a comprehensive set of policies and procedures reasonably designed to ensure suspicious activity is detected and reported. Of all the obligations, agent integration has been the most challenging for the insurance industry. The reasons vary from the operational impact, to the overlap between agents employed by financial institutions subject to the BSA, to the complexity of the decentralized sales networks utilized by our industry.[24]

To comply with the SAR regulations, insurance companies are required to train their agents on how to detect suspicious activity and terrorist financing, and then what to do with this information once it has been recognized. Agent training generally consists of three main elements.[25] First, a basic understanding of money laundering and terrorist financing is required. This should include an explanation about the three phases of money laundering (placement, layering, and integration) and how this may occur inside of an insurance company product.[26] Second, the agent should be provided an explanation of the types of suspicious activity (typically called "red flags") that are associated with insurance products. Third, the agent should be provided clear instructions for contacting the insurance company should suspicious activity be identified.

Some insurance companies have developed training tools delivered via the internet that each agent must take. Others have modified existing selling agreements to ensure the insurance agency trains their sales force. Still other companies have required each agent to sign a training certification or sign up for a third party training seminar. Each effort attempts to balance the AML risk posed by the distribution force with the need to ensure good business is not turned away. Because an insurance company fiercely competes to have their products sold by a sales force that is often the agent

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24 Many insurance company products are considered securities and must be sold by an individual who is both an insurance agent and a registered representative of a broker/dealer. Additionally, many insurance products are sold through an insurance agency affiliated with a bank.

25 These are the bare minimum requirements for training on SAR requirements. Additional training elements should be included based on the risks posed by each insurance company.

26 This becomes even more important for insurance agents that are not covered by another financial institution as these persons have little to no anti-money laundering experience. For example, an insurance agent licensed to sell only fixed annuities has never been subject to AML obligations.

of several insurance companies, no one wishes to make their product more difficult to sell than competitors.

The certification environment has met with varying levels of success. Since many of the insurance agencies have little experience with anti-money laundering and were under the false impression that these obligations did not apply to them in any way, many agencies have not returned executed certificates. Besides unfamiliarity, the sheer volume of certificates being sent to agencies that are generally small, entrepreneurial businesses with little or no legal staff are causing the return rates to be less than expected. The insurance industry will continue to refine their strategies in this regard, but ultimately will be faced with having to address agencies or agents that do not return a certificate or receive sufficient training.[27]

Another issue that has arisen in this agent integration context is the interplay between agents who are employed by financial institutions subject to AML regulations ("covered financial institutions") and agents that are not. Some covered financial institutions are cooperative about permitting employees that are also agents of an insurance company to receive training directly from the insurance company; others are not. This lack of cooperation is not always due to a nefarious purpose. Rather, some of the largest financial institutions possessing sound AML programs have employees who are appointed agents or subagents of several insurance companies. The appetite for allowing multiple insurance companies to train their employees several times over is minimal.[28]

One way to develop procedures tailored to meet the insurance company's risks is to stratify agents by various risk categories and then modify your SAR efforts based on the results. For example, agents could be divided into those that are subject to another AML program and those that are not. Agents can also be divided by the size and scope of their employers or the types of products they sell. Finally, the actual sales volume generated by agents can be used to identify risk. Taking each of these categories and viewing them will allow an insurance company to focus its training and SAR detection efforts on those agents that pose a higher risk to the insurance company.

SAR Detection

Another area that requires further development is the identification of relevant examples of suspicious activity. Like broker/dealers and mutual

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27 This is another reason for ensuring senior management is fully supportive of anti-money laundering issues as the decision to cancel a selling relationship has a business impact.

28 The AML Program regulation does permit an insurance company to rely upon another financial institution's training efforts, but only after sufficient due diligence and documentation.

funds, insurance companies do not generally accept cash to fund their products. It is my impression that the majority of money laundering activity involving insurance company products occurs at the layering or integration phase, phases of money laundering that are not as easily identifiable.[29]

Law enforcement and FinCEN have highlighted some suspicious activity red flags. These include "free looks," unrelated third parties making premium payments, large deposits that are later withdrawn outside of the free look period, or suspicious policy loans. The recent revisions to the FFIEC BSA/AML Examination Manual also provide examples of potential red flags for the insurance industry. Some of these include purchasing insurance products with currency or currency equivalents and purchasing an insurance product without concern for the product's investment performance.

The examples identified thus far focus on the same type of analysis used by other financial institutions. That is, an account is reviewed to determine if the activity is unusual or suspicious in light of the product used. For some of these red flags, the real challenge is applying this analysis to insurance company products. For example, a customer that exercises the right to free look the contract, in and of itself, is likely not suspicious. Unless the customer has funded the account in an unusual manner (multiple cash equivalents, international wires, etc.), it is likely that the insurance company will not have sufficient information to determine whether the transaction was suspicious. In contrast, the insurance company will be able to identify a pattern of suspicious activity should the customer or her agent exhibit a pattern of similar suspicious transactions.

The insurance industry has been working with the providers of SAR detection technology to develop indicators of suspicious activity. Currently, these efforts are focused on the red flags outlined above and other "off the shelf" indicators. The more sophisticated suspicious transaction red flags focusing on patterns of transactions will eventually be identified. As learned from other financial institutions, it takes time and experience with the data to accomplish this goal.

It is critical that FinCEN and law enforcement continue identifying ways in which the criminal element is utilizing insurance company products. Analysis of the SARs filed by insurance companies and presentations by law enforcement of closed or substantially closed investigations will allow the industry to calibrate detection efforts to the true AML risks.

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29 I am not suggesting that illicit funds are never placed into insurance company products, only that the more prevalent use of our products is in the other money laundering phases. For example, variable annuity purchases are typically completed using items of limited negotiability (checks, drafts, and wires) rather than other types of monetary instruments.

What To Do With Potential Suspicious Activity

Once an insurance company has determined the scope of its SAR obligations, trained its agents, and developed methods to detect suspicious activity, it must develop internal processes to manage the flow of information and work associated with these efforts.

Persons should be designated to review the potential suspicious activity and then file reports of qualifying SARs. This effort could be decentralized into the line of business or centralized into a single compliance unit. There are advantages and disadvantages to each option and the approach should match the insurance company's compliance culture and structure.

Regardless of organization, policies and procedures must be documented and opportunities to detect suspicious activity must be identified. It is important to develop clear points of entry into your SAR process and then integrate these entry points into your SAR training. For example, a web site might be developed or the existing sales communication infrastructure utilized so agents and insurance company employees know where to go if suspicious activity is identified.

Lastly, a leading practice is to centralize the SAR filings in one group even if detection efforts are decentralized. Centralization provides for consistent review of potential suspicious activity and determination of when a SAR is to be filed, the information contained in the SAR, and reporting to appropriate management. It also allows for creating procedures that will be regularly followed, a more succinct review by your independent tester, and a more secure environment for maintaining the SAR records.

Final Thoughts

It is critical to remember that suspicious activity reporting is an important tool for law enforcement. Yes, the effort is challenging. The fact that our industry is required to monitor the activities of a sales force that it typically does not employ is extremely difficult. Law enforcement has provided some examples of suspicious activity and red flags applicable to our industry. More examples are needed. However, FinCEN has promulgated a risk-based regulatory framework that allows each insurance company to develop an appropriate program. Most importantly, our efforts make it more difficult for truly bad people to utilize our products.

Why E-Filing works for you:

Savings: With E-Filing, everyone saves!

- *Enrolled Institutions:* By eliminating the direct mailing costs that accompany paper filings, most surveyed institutions enjoyed cost savings upon switching to BSA E-Filing.
- *Federal Government:* It costs the Federal Government only 32¢ to process a BSA E-Filed form compared to $4 for each paper-filed Currency Transaction Report!

Security:

- BSA E-Filing has been designed and developed in strict compliance with Government regulations applicable to Federal computer systems.
- Enrolled institutions use a userid and password to securely access the BSA E-Filing system, and a PIN to digitally sign submissions.

Peace of Mind:

- *Accuracy:* Edit checks built into the system cut down on incomplete filings.
- *Track Status:*
  - ► BSA E-Filers gain the exclusive ability to confirm that submitted Suspicious Activity Reports were transmitted and received through BSA-E-Filing's Track Status capability
  - ► CTRs: BSA E-Filers receive automatic acknowledgements for all BSA E-Filed Currency Transaction Reports.

Section 7 - Feedback Form

Financial Crimes Enforcement Network
U.S. Department of the Treasury

Your feedback is important and will assist us in planning future issues of ***The SAR Activity Review****. Please take the time to complete this form. Thank you for your cooperation. This form can also be accessed and completed online by visiting http://www.fincen.gov//feedback/fb.sar.artti.php. Any questions can be submitted to sar.review@fincen.gov.*

A. Please identify your type of financial institution.

Depository Institution:
__ Bank or Bank Holding Company
__ Savings Association
__ Credit Union
__ Edge & Agreement Corporation
__ Foreign Bank with U.S. Branches or Agencies

Securities and Futures Industry:
__ Securities Broker/Dealer
__Futures Commission Merchant
__Introducing Broker in Commodities
__Mutual Fund

Money Services Business:
__ Money Transmitter
__ Money Order Company or Agent
__ Traveler's Check Company or Agent
__ Currency Dealer or Exchanger
__ U.S. Postal Service
__ Stored Value

Casino or Card Club
__ Casino located in Nevada
__ Casino located outside of Nevada
__ Card Club

__ **Insurance Company**

Other (please identify): _____

B. Please indicate your level of satisfaction with each section of this issue of *The SAR Activity Review- Trends Tips and Issues* (circle your response).

1=Not Useful, 5=Very Useful

Section 1 - Director's Forum	1	2	3	4	5
Section 2 - Trends and Analysis	1	2	3	4	5
Section 3 - Law Enforcement Cases	1	2	3	4	5
Section 4 - Tips on SAR Form Preparation & Filing	1	2	3	4	5
Section 5 - Issues & Guidance	1	2	3	4	5
Section 6 - Industry Forum	1	2	3	4	5
Section 7 - Feedback Form	1	2	3	4	5

C. What information or article in this edition did you find the most helpful or interesting? Please explain why (please indicate by topic title and page number):

_____
_____
_____
_____

D. What information did you find least helpful or interesting? Please explain why (again, please indicate by topic title and page number):

_____
_____
_____
_____

E. Did you find the Index listing of previous and current SAR Topics useful?

Yes No

F. What new TOPICS, TRENDS, or PATTERNS in suspicious activity would you like to see addressed in the next edition of *The SAR Activity Review – Trends, Tips & Issues*? Please be specific - Examples might include: in a particular geographic area; concerning a certain type of transaction or instrument; other hot topics, etc.

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_____
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_____

G. What questions does your financial institution have about *The SAR Activity Review* that need to be answered?

_____
_____
_____
_____

H. Which of the previous issues have you read? (Check all that apply)

[ ] October 2000 [ ] June 2001 [ ] October 2001 [ ] August 2002
[ ] February 2003 [ ] November 2003 [ ] August 2004 [ ] April 2005
[ ] October 2005 [ ] May 2006

Please fax Feedback Forms to:

Financial Crimes Enforcement Network (FinCEN)
(202) 354-6411

Appendix

Index of Topics from All Editions of *The SAR Activity Review -Trends, Tips & Issues*

Topic	Issue	Page	Hyperlink Address to *SAR Activity Review* Issue
Automated Teller Machine (ATM) Commonly Filed Violations	7	23	http://www.fincen.gov/sarreviewissue7.pdf
Automobile Retail Industry: SAR Analysis – Indications of Suspicious Activity	5	27	http://www.fincen.gov/sarreviewissue5.pdf
Boat/Yacht Retail Industry: SAR Analysis – Indications of Suspicious Activity	5	31	http://www.fincen.gov/sarreviewissue5.pdf
Broker-Dealer SARs – The First Year	7	20	http://www.fincen.gov/sarreviewissue7.pdf
Casino and Card Club Industries – Suspicious Activity Report Filings	8	19	http://www.fincen.gov/sarreviewissue8.pdf
Computer Intrusion	3	15	http://www.fincen.gov/sarreviewissue3.pdf
Computer Intrusion	9	15	http://www.fincen.gov/sarreviewissue9.pdf
Consumer Loan Fraud	7	27	http://www.fincen.gov/sarreviewissue7.pdf
Correspondent Accounts and Shell Company Activity	2	18	http://www.fincen.gov/sarreview2issue4web.pdf
Coupon Redemption Fraud	6	14	http://www.fincen.gov/sarreviewissue6.pdf
Credit/Debit Cards: Suspicious Activity	4	29	http://www.fincen.gov/sarreview082002.pdf
Detection of Unlicensed/Unregistered MSBs through SAR Filings	10	5	http://www.fincen.gov/sarreviewissue10.pdf
Detection of Unlicensed/Unregistered MSBs through SAR Filings -- Pre & Post Guidance Comparison	11	6	http://www.fincen.gov/sarreviewissue11.pdf
Director's Forum: Issue 8	8	3	http://www.fincen.gov/sarreviewissue8.pdf
Director's Forum: Issue 9	9	3	http://www.fincen.gov/sarreviewissue9.pdf
Director's Forum: Issue 10	10	3	http://www.fincen.gov/sarreviewissue10.pdf
Egmont Group- Strategic Analysis Initiative	2	24	http://www.fincen.gov/sarreview2issue4web.pdf
FATF Typologies Exercise	2	23	http://www.fincen.gov/sarreview2issue4web.pdf
Food Stamp Fraud Using Electronic Benefit Transfer (EBT) Cards	7	9	http://www.fincen.gov/sarreviewissue7.pdf
Global Use of SARs	2	24	http://www.fincen.gov/sarreview2issue4web.pdf
Index of Topics from Previous SAR Activity Review Issues	6	85	http://www.fincen.gov/sarreviewissue6.pdf
Identity Theft	2	14	http://www.fincen.gov/sarreview2issue4web.pdf
Identity Theft – Update	3	24	http://www.fincen.gov/sarreviewissue3.pdf
Increased SAR Reporting Involving Mexico	1	12	http://www.fincen.gov/sarreviewforweb.pdf
Indicators of Misuse of Informal Value Transfer Systems	5	18	http://www.fincen.gov/sarreviewissue5.pdf
Industry Forum: Check Fraud Loss Report	5	69	http://www.fincen.gov/sarreviewissue5.pdf

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