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Regulatory Policy and Programs Division  
Financial Crimes Enforcement Network (FinCEN)  
Department of the Treasury  
P. O. Box 39  
Vienna, Virginia 22183

**PRA Comments - CTR - Currency Transaction Report,  
FinCEN Form 104**

Dear Sir or Madam:

The American Bankers Association (ABA)<sup>1</sup> appreciates the opportunity to comment on the proposed renewal, without change, of the Currency Transaction Report (CTR), FinCEN Form 104.

At the outset, ABA encourages FinCEN to continue working with the industry, regulatory agencies and law enforcement to update and streamline the form in order to ease regulatory burden. It is equally important to continue efforts to simplify the process used to exempt customers to eliminate unnecessary reports of routine low-risk transactions. We appreciate the efforts made so far but believe more can be done. ABA looks forward to continue working with FinCEN, banking regulators and law enforcement on this problem.

This proposal is only an extension of the existing form – without change – for Office of Management and Budget (OMB) purposes. Still, we are concerned that the estimated time needed to complete a CTR and comply with the rule's requirements understates reality. FinCEN estimates that a financial institution, on average, only needs 20 minutes to complete a CTR and 10 minutes per form for recordkeeping. In reality, that time should at least be doubled to more accurately reflect the burden. A more accurate figure is important since underestimating the time needed skews the understanding of the overall burden imposed by AML/CFT compliance.

When considering burden and time imposed by the requirement, ABA recommends FinCEN take into account the four pillars of an AML

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<sup>1</sup> The American Bankers Association (ABA) brings together banks of all sizes and charters into one association that works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry's \$13.3 trillion in assets and employ over two million men and women.

program. Clearly, there is more involved with CTR compliance than simply completing a form. Associated with the form are training and audit demands and these clearly are elements that banks cannot overlook and therefore must be factored into the equation. For example, one large bank estimates the breakdown of time associated with a single CTR as follows:

- 5 minutes for a teller to complete the form
- 3 minutes for a supervisor to review the form
- 1 minute to submit the form to the BSA officer
- 10 minutes for the BSA officer to review the information and approve the form
- 40 minutes for additional steps, such as quality control (compliance oversight), error tracking and reporting, bundling information for transmittal to the IRS computing center in Detroit, processing information from the IRS, and resolving any errors or other problems with CTRs filed
- 10 additional minutes for recordkeeping (as estimated by FinCEN)
- TOTAL: 69 minutes (note that this is a bank that makes extensive use of automation and files electronically)

While it must be granted that automation increasingly make the process more efficient, it still takes more time than the proposal estimates to collect the needed information to process and file a CTR. Smaller community banks which do not file as many forms and do not have specialized expertise on staff may require even longer time to complete a single form. However, since the overall estimate is an average, ABA believes an appropriate average time per CTR form would be between 60 and 70 minutes.

In February 2008, the Government Accountability Office (GAO) released a report that reviewed the steps taken by financial institutions when filing a CTR.<sup>2</sup> While the report does not specifically address the provisions being considered here, it does support the argument that the estimated burden in the proposal understates the actual burden.

As noted above, it is important for developing a realistic analysis of the burden faced by institutions in complying with regulatory requirements to

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<sup>2</sup> *BANK SECRECY ACT Increased Use of Exemption Provisions Could Reduce Currency Transaction Reporting While Maintaining Usefulness to Law Enforcement Efforts*, GAO-08-355, February 2008, <http://www.gao.gov/new.items/d08355.pdf>.

fully account for all the steps involved. Under the Paperwork Reduction Act of 1995, the following types of activities are among those that constitute burden to be estimated in connection with a covered information collection:

- Design, procurement and operation of data *collection*, data *management*, data *reporting* systems necessitated by the collection of information.
- Responding to changes in the requirements of an existing collection of information where such collection requires different or more detailed information, redefines terms or concepts or alters in any way the consequences of responding in the same manner as before.
- Training staff or other agents about how to comply with the collection, including whatever time or money resources are necessary to ensure staff understands enough about the nature of the program and policy context to respond to the collection.
- Time, effort and other resources to perform all required tasks, including completion and fulfillment of the information request, as well as to certify the accuracy and/or reliability of information provided. Effort to certify compliance with any statutory or regulatory provision represents paperwork burden, generally requires intensive scrutiny by senior officers, cannot be delegated and generally entails a comprehensive audit. Such certification burden should be evaluated with the context of the legal consequences to respondent for improper certification.
- Time, effort and other resources devoted to transmitting the collection of information to the federal agency or a third party.<sup>3</sup>

ABA believes that when all the elements outlined by the OMB are considered, the estimated time presented in the proposal understates the burden. Therefore, after all these factors are properly taken into account, ABA strongly recommends FinCEN increase the estimated time needed to comply.

Thank you for the opportunity to comment. We look forward to continuing to work with FinCEN to streamline the process and make it less burdensome for financial institutions while simultaneously ensuring the

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<sup>3</sup> These factors are described in *The Paperwork Reduction Act of 1995: Implementing Guidance for OMB Review of Agency Information Collection*, August 16, 1999, Draft by Office of Information and Regulatory Affairs, OMB, pp. 45 – 48.)

information submitted is more meaningful and useful for law enforcement agencies. If you have any questions or need additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, reading "Robert G. Rowe, III". The signature is written in a cursive style with a prominent initial "R" and a horizontal flourish at the end.

Robert G. Rowe, III  
Vice President & Senior Counsel