



*Invested in America*

November 15, 2011

**BY EMAIL TO:** [regcomments@fincen.treas.gov](mailto:regcomments@fincen.treas.gov)

Regulatory Policy and Programs Division  
Financial Crimes Enforcement Network  
Department of the Treasury  
P.O. Box 39  
Vienna, VA 22183  
Attn: BSA Required Electronic Filing

**Re: Bank Secrecy Act Reports - Proposed Required Electronic Filings**

Dear Director Freis:

The Securities Industry and Financial Markets Association (SIFMA)<sup>1</sup> appreciates the opportunity to comment on the Financial Crimes Enforcement Network's (FinCEN) proposed requirement for the filing of certain Bank Secrecy Act (BSA) reports electronically by June 30, 2012.<sup>2</sup>

As you are aware, SIFMA remains supportive of FinCEN's overall goal to transition BSA reporting to an electronic filing environment. However, we believe that additional time is necessary to implement this requirement for the reasons stated below, and strongly urge FinCEN to grant an extension of the effective date of any final rule to December 30, 2012.

In the context of filing suspicious activity reports (SARs), many firms use case management systems to document their investigations of escalated suspicious activity and many of those firms also use their respective systems to file SARs electronically with FinCEN. As we indicated in our comment letter dated December 14, 2010, (related to FinCEN's proposed data fields within the BSA SAR database),<sup>3</sup> often times these systems are substantially configured and customized to support the particular data elements and source systems specific to the firms that

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<sup>1</sup> SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association. For more information, visit [www.sifma.org](http://www.sifma.org).

<sup>2</sup> Notice of Filing and Request for Comments, Proposal That Electronic filing of Bank Secrecy Act (BSA) Reports Be Required (Sept. 16, 2011), available at <http://gpo.gov/fdsys/pkg/FR-2011-09-16/pdf/2011-23841.pdf>.

<sup>3</sup> Notice of Filing and Request for Comments, Bank Secrecy Act Suspicious Activity Report Database Proposed Data Fields (Oct. 15, 2010), available at <http://edocket.access.gpo.gov/2010/pdf/2010-26038.pdf>.

utilize them. As a result of the firms' review of the *FinCEN's BSA Electronic Filing Requirements For Bank Secrecy Act Suspicious Activity Report (BSA SAR)* document issued in September 2011 ("SAR Data Fields Document"),<sup>4</sup> we have identified significant and diverse technology-related requirements necessary to comply with multiple aspects of the proposed data fields. Further, we think it important that certain comments set forth in SIFMA's December 14<sup>th</sup> comment letter, including requests for clarification of the use of certain fields and definitions of certain terms, which were not addressed in the SAR Data Fields Document, be addressed, prior to adjustments to our databases. (See attached letter dated December 14, 2010). Without further clarification, there is an increased risk that FinCEN and ultimately law enforcement will receive inconsistent or inaccurate data from filing institutions. One likely example of this risk would be the potential over usage of the "Other" field as a "fall back" selection due to the aforementioned lack of clarity. This scenario may be an unintended consequence; however, it could significantly negate the value of including the new SAR data fields. Our proposed effective date of December 30, 2012, would allow FinCEN more time to issue additional guidance to address SIFMA's outstanding comments.

The extra time that SIFMA has requested will enable firms to work with internal partners and/or external vendors to develop and adequately test their e-filing capabilities as well as implement related processes, policies, procedures and training, particularly with the expanded SAR data fields, to mitigate the risk that firms will not meet the effective date of the e-filing final rule, once issued.

In addition, SIFMA requests clarification from FinCEN that filing institutions are permitted to file BSA forms electronically on behalf of their employees, as appropriate. For example, a firm that maintains accounts with foreign financial institutions will have one or more employees who have signature authority over such accounts. These employees may have a Report of Foreign Bank or and Financial Accounts (FBAR) filing obligation by virtue of their job responsibility of having signature authority. As an accommodation, some firms have gathered the relevant information and filed these FBARs on behalf of their employees in the past and would like to continue to do so in the future.

Lastly, SIFMA respectfully requests that FinCEN permit firms to file BSA forms in a hard copy format as a contingency alternative if material issues arise with their respective e-filing systems or FinCEN's database, which would prevent firms from, among other things, batch filing their SARs. It would be inefficient and burdensome for firms with large volumes of SARs to use other e-filing methods, such as filing SARs on a one-by-one basis, using FinCEN's website. Given the increased burden on firms to comply with the e-filing and SAR data field

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<sup>4</sup> BSA Electronic Filing Requirements for Bank Secrecy Act Suspicious Activity Report (BSA SAR) document issued in September 2011, available at [http://bsae filing/fincen/treas.gov/news/FinCENSARElectronicFiling Requirements.pdf](http://bsae filing/fincen/treas.gov/news/FinCENSARElectronicFilingRequirements.pdf).

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guidance, SIFMA would also like to highlight for FinCEN that implementing the requirement may have a chilling effect on the voluntary filing of SARs by firms not yet subject to the SAR filing requirement..

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Thank you for giving SIFMA the opportunity to comment on the Proposal. We look forward to the continued partnership between government and industry to strengthen the regulatory structure surrounding securities firms and other U.S. financial institutions. We are available to meet with FinCEN staff, if they would like, to discuss these comments. If you have any questions regarding this comment or any related issues, please contact the SIFMA staff advisor to the Anti-Money Laundering & Financial Crimes Committee, Ryan Foster, at 202.962.7388 or [rfoster@sifma.org](mailto:rfoster@sifma.org).

Sincerely,



Ryan D. Foster  
Vice President and Assistant General Counsel  
SIFMA