



**U.S. Department of Justice**

Criminal Division

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*Washington, D.C. 20530*

April 17, 2006

**VIA E-MAIL**

Financial Crimes Enforcement Network  
Post Office Box 39  
Vienna, Virginia 22183

Re: Suspicious Activity Report by Depository Institutions OMB No. 1506-0001  
Federal Register 8640 (February 17, 2006)

Dear Sirs:

The Asset Forfeiture and Money Laundering Section respectfully requests the subject Draft Suspicious Activity Report by Depository Institutions (SAR) be modified on Page 1, Part II, Line 23, to include a check box for the identification of "Suspicious activity involving a politically exposed person."

The expression "politically exposed person" ("PEP") applies to persons and their close associates who perform important public functions for a state. The Swiss Federal Banking Commission, in its guidelines on money laundering, uses the term for a "person occupying an important public function." Wolfsberg Anti-Money Laundering Principles provide specific examples of "Politically Exposed Persons," such as heads of state, cabinet ministers, political party leaders, influential executives in nationalized industries or under government administration, senior judicial or military officials, and members of ruling families, among others. Above this, The Financial Action Task Force (FATF)<sup>1</sup> has issued in the Forty Recommendations, Recommendation 6, which states:

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<sup>1</sup>The FATF is an inter-government body which sets standards, and develops and promotes policies to combat money laundering and terrorist financing. It currently has 33 members; 31 countries and governments and two international organizations; and more than 20 observers: five FATF-style regional bodies and more than 15 other international organizations or bodies.

“Financial institutions should, in relation to politically exposed persons, in addition to performing normal due diligence measures: a) Have appropriate risk management systems to determine whether the customer is a politically exposed person. b) Obtain senior management approval for establishing business relationships with such customers. c) Take reasonable measures to establish the source of wealth and source of funds. d) Conduct enhanced ongoing monitoring of the business relationship.”

There is always the possibility, especially in countries where corruption is widespread, that such persons may abuse their public powers for their own illicit enrichment through the receipt of bribes, kickbacks, embezzlement, or other economic activity for personal gain.

Section 352 of The USA Patriot Act amended the Bank Secrecy Act (BSA), mandating financial institutions to practice enhanced due diligence on high-risk products, including those servicing persons on certain lists of designated terrorists and “senior foreign political figures” as codified in 31 U.S.C. 5318 (i) (3) (B).

In a major regulatory enforcement action during 2004, Riggs Bank N.A. agreed to pay a \$25 million civil fine relating to certain deficiencies in its anti-money laundering program plus criminal penalties as well. The fines and penalties resulted from the combined efforts of the U.S. Comptroller of the Currency, Financial Crimes Enforcement Network, Department of Justice, and a Senate subcommittee. This enforcement action provides a guiding lesson for banks and those in the financial services industry in dealing with anti-money laundering compliance. The action also provides heightened awareness to such risk exposures as relationships with “politically exposed persons,” and of the consequences for failing to fully comply with SAR reporting requirements for such public figures.

## **Recommendation**

The Asset Forfeiture and Money Laundering Section recommends that on Page 1, Part II, Line 23, of the proposed SAR form an additional box be added as “box v” and entitled “Suspicious activity involving a politically exposed person.” This modification to the SAR form labeled as “Draft” in the instant Federal Register Notice can be achieved without any additional cost (because the database fields are already integrated on the SAR form) yet the modification will serve the needs of regulatory enforcement. It will also better align the “Draft” SAR form with legislated requirements of the USA Patriot Act and policies of the United States and other governments, as well as the policies of international transparency advocates.

Politically exposed persons who are identified as performing a suspicious activity sufficient to file a report must be made on the face of the SAR in order to communicate the level of heightened risk to national and global banking systems.

We have no other comments on the Suspicious Activity Report by Depository Institutions at this time. Thank you for making this form and process available for comment.

Sincerely,

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Lester M. Joseph, Principal Deputy  
Asset Forfeiture and Money  
Laundering Section