From: Bob Wentz [Bwentz@security1stbank.com]

Sent: Tuesday, May 02, 2006 4:33 PM

To: Comments, Regulation

Subject: RIN 1506-AA85

Since the government has determined that MSB have an elevated risk for BSA compliance, the primary regulator for MSB's, which I understand is the IRS, should step up to the plate and assume the responsibility for monitoring and examining these entities rather than trying to pass the burden onto other financial institutions.

Accordingly, a bank's responsibility for monitoring a MSB should not go beyond determining if it has registered as an MSB.

> If the entity has registered as a MSB the bank should not have any concern for elevated risk, on going monitoring, or further examination. The reason is if the entity has registered the IRS, as the primary regulator for MSB's, needs to step up to plate and do its job and not pass the burden of regulation on to other financial institutions. A registered MSB should be an automatic exemption from CTR reporting just like other financial institutions are because they should be closely regulated and examined by the IRS just like financial institutions are examined by their regulators.
>
> If the entity has not registered as a MSB the bank's only responsibility should be to file a single SAR. After a SAR is filed the IRS is aware of the MSB's existence and again should step up to plate as the primary regulator and do its job and not pass the regulatory burden on to other financial institutions.

Bob Wentz
Security First Bank
PO Box 3490
805 5th Street
Rapid City, SD 57709
bwentz@security1stbank.com
Direct # 605-718-8317
Fax # 605-718-8319

December 23, 2005

RE: Bank Secrecy Act (as amended by the US Patriot Act) and
Proposed Neighborhood Secrecy Act

Dear :

Regulators and law enforcement have touted and proclaimed how effective the Bank Secrecy Act has been in the fight against drug dealing, terrorism and money laundering activities associated with these criminal activities. Based on this reported success, I am proposing the drafting and adoption of analogous legislation with comparable goals. I will refer to this legislation as the Neighborhood Secrecy Act. The focus of the Neighborhood Secrecy Act will be to reduce the incidence of drug use and domestic violence. After all, with less drug use there would be less demand for drug dealers, and domestic violence is just a personal and narrowly targeted form of terrorism.

I am proposing that the reporting requirements mandated under the Neighborhood Secrecy Act be the same as those of the Bank Secrecy Act and that the Neighborhood Secrecy Act be implemented and evolve over time, similar to the evolution of the reporting requirements contained in the Bank Secrecy Act. Following is an outline of how I see the requirements of the Neighborhood Secrecy Act to be implemented and to evolve over time:

First, the Neighborhood Secrecy Act could begin with a simple requirement that any time anyone observed or became aware of a neighbor, friend or family member becoming engaged in any reportable activities (primary focus on drug use and domestic violence), that individual would be required to file a Suspicious Activity Report (SAR). Naturally, the same safe harbor and secrecy provisions for filing a SAR pursuant to the Bank Secrecy Act would also be provided in the Neighborhood Secrecy Act. Namely, the individual filing the SAR would be protected from prosecution for filing the SAR and would be required to keep the fact that a SAR was filed strictly confidential.

Next, after a period of time, the requirements for filing a SAR could be turned up a notch. This could be accomplished by changing the requirements of observation of neighbors, friends and family members from "observing or becoming aware of reportable activities" to a requirement that individuals "actively monitor and look for signs and indications of reportable activities."

Again, after another period of time and assimilation of the enhanced observation requirements into the Neighborhood Secrecy Act, the Neighborhood Secrecy Act requirements can be turned up yet another notch. This enhancement would require individuals to "know your neighbors."

Recognizing that it may difficult to gain approval for this requirement, it may have to wait to be implemented following the publicizing of a high-profile domestic violence case. Much like the events of 911 allowed regulators to have "Customer Identification Program" requirements included in the US Patriot Act (amending the Bank Secrecy Act), a high profile domestic violence case may even allow the "know your neighbor" requirements be elevated to a requirement for individuals to confirm the identity of their neighbors. Then, the observation requirements could again be strengthened. In addition to requiring individuals to "monitor the activities" of neighbors, friends and family, regulation could require individuals to compare monitored activity to what would be the expected normal activity based on the knowledge gained through the process of getting to know and identifying their neighbors.

Following the Bank Secrecy Act model, one more provision would be then be added to the Neighborhood Secrecy Act. This last provision would require individuals to complete and document a risk assessment on their neighbors, friends and family members. The focus of the risk assessment would be to assess all the factors that might indicate a higher propensity of a neighbor, friend or family member to engage in any reportable activity. This would then result in a requirement that individuals initiate even more diligent monitoring of neighbors, friends or family members whose profile indicates a higher propensity to engage in reportable activities. This enhanced monitoring could take the form of electronic surveillance, comparing actual activity to expected activity with the assistance of computer models, and simple purposeful surveillance (i.e. a stake-out). Implementing and following these requirements will ultimately result in the filing of SAR's with information that is very useful to law enforcement.

By now you may be thinking that even though the Neighborhood Secrecy Act may be effective in the fight against drug use and domestic violence, that it may raise issues like the right to privacy/confidentiality, the intense observation may constitute stalking or unreasonable search and that it may be difficult to enforce. Again, these issues can be solved by following the Bank Secrecy Act model.

The Right to Financial Privacy Act details very specific requirements and process that any federal governmental entity must follow in order to gain access to customer records of a financial institution. This has proven not to be an issue or a problem for federal regulators or law enforcement because the employees of financial institutions are required to do the searching and snooping for them and to file SAR's containing all the information required for a summons or subpoena to be obtained pursuant to the provisions of the Right to Financial Privacy Act and then protects the employees from prosecution with the safe harbor provisions in the Bank Secrecy Act. Since individuals would have the same safe harbor protections under the Neighborhood Secrecy Act as are provided in the Bank Secrecy Act, I would expect any privacy issues to be inconsequential, as is the case with the privacy of financial records.

The issue of enforcement can also be modeled after how the regulators have gained compliance with Bank Secrecy Act. It's rather simple. Any time someone is prosecuted for drug use or domestic violence, prosecute any individual that knew about the activity and did not file a SAR. Regulators could also randomly select citizens for Neighborhood Secrecy Act review and when non-compliance is discovered, certain sanctions on their daily activities could be implemented

until compliance is achieved. These enforcement actions are sure to command compliance as it has with the Bank Secrecy Act.

I trust this proposal for a new legislative initiative makes my perspective relative to the Bank Secrecy Act clear and understood. The requirements of the Bank Secrecy Act and the compliance tolerance levels have resulted in financial institutions deploying a disproportionate amount of resources to fulfill the mandated role of being the Bank Secrecy Act Cops.

My fear is that one day a bank customer will be prosecuted for some activity that the regulators will view as an activity that our bank's monitoring, searching and snooping in customer records should have identified as suspicious and that a SAR should have been filed. This would place the bank and the employees personally at risk of civil money penalties and potential criminal prosecution. It just doesn't seem right that our employees are forced into a law enforcement role and then have to fear potential criminal prosecution for non-compliance.

I am requesting that you study the provisions of the Bank Secrecy Act and make your own assessment on the reasonableness of all its provisions. How do you reconcile the provisions of the Right to Financial Privacy Act and the protections in the Bill of Rights from unreasonable search with the monitoring and reporting requirements mandated by the regulators for compliance with the provisions of the Bank Secrecy Act? I would truly be interested in hearing your personal perspective on the provisions of the Bank Secrecy Act.

Sincerely,

Robert Wentz
Chief Operations Officer

Mailed to:

Tim Johnson
Stephanie Herseth
John Thune
Tom Osborne
Chuck Hagel
Ben Nelson
Lee Terry
Jeff Fortenberry