



# FUTURES INDUSTRY ASSOCIATION INC.

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VIA Electronic Mail and U.S. Mail

October 4, 2002

Office of the Chief Counsel  
Financial Crimes Enforcement Network  
Department of the Treasury  
P. O. Box 39  
Vienna, Va 22183

Attention: PRA Comments – SAR Securities and Futures Form

Re: Proposed Suspicious Activity Report by the  
Securities and Futures Industry (SAR-SF)

Ladies and Gentlemen:

The Futures Industry Association appreciates the opportunity to comment on the proposed form “SAR-SF”(the “Form”). The FIA is the principal spokesman for the futures industry. FIA’s regular membership is composed of approximately 41 of the largest futures commission merchants (“FCMs”) in the United States, the majority of which are also registered as broker-dealers (“BDs”). Among its associate members are representatives from virtually all other segments of the futures industry, both national and international.

The futures industry wholeheartedly supports the work of the Treasury and the other financial regulators and SROs in implementing the counter-money laundering programs and compliance procedures required under the USA Patriot Act. We have provided below some brief comments on the form “SAR-SF”. Of most significance at this stage is our request that FinCEN consider revising the Form when final rules requiring FCMs to file suspicious activity reports become effective. We understand that the proposed rules will be published for comment in the very near future. Some changes in the Form might be warranted based on the final FCM rules. For example, the Form speaks in terms of the obligations of “broker-dealers” and, a further example, carves out reporting requirements when the “broker-dealer” has another securities related reporting obligation; these concepts are not necessarily transferable to an entity that is solely involved in handling futures, e.g., an FCM registrant that is not a BD or an Introducing Broker (“IB”) that is not a BD. Thus, it would be appropriate to revise some of the instructions on the form to adapt to the businesses of the new categories of registrants using the Form.

Many FCMs are already either subject to suspicious activity reporting because of their affiliation with banks or like many broker dealers are voluntarily filing suspicious activity reports. We understand that until December 30, 2002, FCMs should continue to use the bank SAR forms for reporting and to continue sending the reports to FinCEN only. It is unclear whether, after the December date, an FCM or IB (i.e., a futures registrant only) would have reporting obligations to the SEC—or would be reporting to the CFTC or to FinCEN alone.

The Securities Industry Association filed extensive comments proposing changes in the Form BD-SF. We have worked with the SIA on several of the anti-money laundering initiatives and we support their suggestions for revising the form. In particular we support the suggestion that the forms used by banks, BDs and FCMs should be as similar as possible to simplify filing by entities registered in dual capacities. In addition, we would like to offer two suggestions. First, it would be helpful to provide filers a mailing address in addition to a post office box so that FEDEX and other overnight mail services can be utilized. Second, in (j) of Part VI, the narrative section of the report, it is suggested that firms provide information recommending any further investigation that might assist law enforcement authorities. We believe (j) should be removed as it places a firm in the inappropriate position of recommending how or whether law enforcement should conduct its investigation. A SAR report is based on only suspected activity and it appears to be more in the purview of the government to weigh how and whether further government action is needed.

Thank you again for the opportunity to comment on the Form. If you have any questions regarding this letter, please do not hesitate to contact the undersigned.

Very truly yours,

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Barbara Wierzynski  
Executive Vice President and  
General Counsel