

BK DIR/
Stat
Spch
FDIC
D

STATEMENT ON

BANK SECRECY ACT ENFORCEMENT,
MONEY LAUNDERING AND CRIMINAL ACTIVITY
IN INSURED FINANCIAL INSTITUTIONS

PRESENTED TO *The*

House SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION,
REGULATION AND INSURANCE,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
HOUSE OF REPRESENTATIVES

BY

JAMES R. DUDINE
CHIEF, SPECIAL ACTIVITIES SECTION
DIVISION OF BANK SUPERVISION
FEDERAL DEPOSIT INSURANCE CORPORATION

Room 2128, Rayburn House Office Building

April 17, 1986.
9:30 a.m.

Library

APR 29 1986

FEDERAL DEPOSIT INSURANCE
CORPORATION

Mr. Chairman, I am pleased to be here this morning on behalf of the Federal Deposit Insurance Corporation (FDIC) to report on the FDIC's enforcement of the Bank Secrecy Act and to discuss, from the FDIC's perspective, the steps we have taken and our thoughts on what still could be done to address the problems the criminal element poses to this country's financial institutions.

We have provided the Committee with a comprehensive report on our efforts to improve compliance with the Bank Secrecy Act. That report reveals we are finding more violations in the banks we examine. The trend in violations is up partly because of FDIC's strategy to focus examination resources on problem banks. In the past three years, problem banks and banks targeted specifically for potential Bank Secrecy Act problems made up a greater proportion of examinations. Such banks would be expected to exhibit a higher incidence of violations than a cross-section of the banking population. The great majority of the violations on which the statistics in our report are based represent inadvertent failures to follow bank procedures and incomplete or late CTR filings rather than actual failures to file CTRs.

Nevertheless, we are not satisfied with the level of compliance by the banks we supervise and we are continually improving our enforcement efforts. Since this Committee held hearings last

April, the following steps have been taken:

First, the interagency examination procedures have been revised and are awaiting Treasury's approval. They have been improved in the areas of international transactions and wire transfers and now cover peripheral bank services such as trust departments and dealer departments. Examiners will be required to follow a stricter regimen, look closely at exemptions granted to customers, and document their activities at various points during the examination.

We have completely revised our educational program for examiners who conduct Bank Secrecy Act compliance examinations. The new program supplements our fundamental examiner training series and on-the-job training. It is delivered at regular intervals in Washington, and regional presentations have been added to reach a larger number of examiners. The program includes information on the latest money laundering methods and instruction on recognizing possible money laundering schemes.

We are working more closely with Treasury and IRS to improve the flow of information and to assist each other in carrying out our responsibilities under the Bank Secrecy Act. The Working Group concept has proved to be successful in improving our response to bank fraud and insider crimes. We hope to make similar progress with this concept in the Bank Secrecy Act area.

We are making more and better use of external targeting of institutions for Bank Secrecy Act reviews. The Customs Service's analysis of currency flows and cash shipments of individual banks and bank-to-peer group relationships provides regulators with an intelligent way to select banks for examination. We strongly support the work being done in this area.

Because the safety and soundness of insured banks is of utmost importance to the FDIC, the resources we can allocate to Bank Secrecy Act compliance are limited. Thus, the method of selecting banks to be examined is very critical to our overall enforcement effort. In addition to targeting banks based on information from the Treasury Department, IRS or the Customs Service, the idea of examining a random sample of banks each year is being considered.

FDIC usually conducts Bank Secrecy Act examinations in conjunction with its review for consumer compliance. We have recently begun reviewing Bank Secrecy Act regulations at safety and soundness examinations or conducting an independent examination, as circumstances warrant. This approach adds flexibility to our enforcement program and permits us to respond quickly to potential problems.

As we have stated in the past, bank supervision and examination procedures cannot assure day-to-day compliance with currency reporting requirements. Financial institutions must install internal controls and systems. They must also train and re-train their employees and audit for compliance. Even under the best of conditions, employees can be corrupted into circumventing the controls and violating the laws.

During the past fifteen months, we have given a lot of attention to improving our efforts to deal with the criminal conduct of bank insiders. We are very encouraged by the progress being made by the Bank Fraud Working Group. The Group was organized under the interagency agreement signed in April 1985 to improve cooperation between bank regulators and law enforcement agencies in responding to the criminal threat to insured financial institutions. Similar progress in dealing with the criminal aspects of money laundering is possible under the current legal environment. However, the government's response to the problem would be strengthened by making money laundering a federal crime. H.R. 2785 and other bills address this fundamental weakness and would permit prosecutors to attack organized criminals directly--by making money laundering the crime--rather than having to build their cases on failures to file currency reports. We support a federal crime of money laundering and generally agree with the higher penalties and stiffer sentences contained in H.R. 2785.

H.R. 2785 contains much needed amendments to the Right to Financial Privacy Act of 1978. There is no question that the Right to Financial Privacy Act serves as a legal and psychological barrier to the flow of information from financial institutions and their regulators to federal law enforcement agencies. Unimpeded information flows are essential to the successful investigation and prosecution of financial criminals and money launderers. This dysfunctional impact appears to reach well beyond the legitimate privacy concerns that Congress intended to protect.

As we have pointed out before, the Act, as interpreted by most interested parties, extends the customer-privacy protections to bank insiders who are often also customers of the bank. Insider abuse of federally insured financial institutions is unquestionably a major cause of bank failures and of losses to the FDIC's insurance fund. We believe that insiders, by virtue of their position in federally insured institutions, ought to be treated differently than a bank's "arms-length" customers.

The amendments to the Right to Financial Privacy Act contained in H.R. 2785 would correct this and other flaws, while preserving the privacy interests of law abiding bank customers. Moreover, financial institutions would be freed from the restrictions and uncertainties now affecting their ability to make informative criminal referrals.

In conclusion, I am convinced that we are making progress in our efforts to deal with criminal conduct in the banking industry, despite the strain placed on our resources by unprecedented bank failures and by budgetary considerations. The commitment by the Department of Justice evidenced in the signing of the interagency agreement and the efforts, to date, of the Bank Fraud Working Group are important examples of the type of progress that can be achieved by working together. This approach should work equally well for the agencies charged with the responsibility to enforce the Bank Secrecy Act.

Thank you.