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STATEMENT ON

THE ENFORCEMENT OF THE BANK SECRECY ACT.

PRESENTED TO *the*

House SUBCOMMITTEE ON GENERAL OVERSIGHT AND RENEGOTIATION
U. S. HOUSE OF REPRESENTATIVES

BY *jl*

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FEDERAL DEPOSIT INSURANCE CORPORATION

10:00 A.M.
TUESDAY, JULY 13, 1982 ,

ROOM 2128 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C.

Mr. Chairman, I appreciate this opportunity to testify on the Bank Secrecy Act and to inform you of the Federal Deposit Insurance Corporation's progress in promoting a higher level of overall compliance with the financial recordkeeping and reporting regulations by the banks under our supervision.

As you know, the FDIC and other Federal bank regulatory agencies have been questioned in the past regarding the effectiveness of their examination programs in enforcing the spirit of the Act. Prior to the mid-1980 rule changes, certain recordkeeping and reporting requirements could be easily circumvented and were virtually impossible to enforce in any practical manner. Exempt customer provisions, for example, could have been applied to almost any bank customer who maintained an active depository relationship. Recordkeeping requirements did not include a provision for bank retention of copies of Currency Transaction Reports, and other basic audit trails were not available. Our efforts to identify violations and procedural deficiencies and seek compliance with the Act were seriously hampered.

The amendments of June 1980 changed this situation by closing many of these loopholes, and I can report that many previous enforcement problems have been resolved. Our examination force, armed also with new procedures, is now better able to identify clear violations. With deficiencies thus identified, followup measures are being used effectively to assure implementation of proper bank procedures and subsequent compliance.

Corporation enforcement efforts have increased substantially with a 28 percent increase in direct, in-bank examination hours between 1980 and 1981. This increase is even more significant as it occurred at a time when our total examination hours devoted to nonsafety-and-soundness compliance matters actually decreased at an annual rate of 14 percent. This major reallocation of examiner resources is indicative of the commitment to achieving maximum compliance with the financial recordkeeping and reporting regulations.

We have also intensified our efforts to educate both our personnel and the banking community regarding the necessary recordkeeping and reporting requirements. Specialized examiner training courses are conducted which include intensive instruction on the Bank Secrecy Act and audit techniques for its enforcement. All commissioned bank examiners are familiar with the Corporation's responsibilities under the Act, and most of our field personnel now have direct in-bank experience in examining for compliance with the recordkeeping and reporting regulations.

Several of our Regional Offices conduct compliance seminars for local bankers. In the Atlanta Region, for example, a presentation has been developed which has been particularly well received by banking groups. Such activities assist the banks and impart an awareness of the Corporation's role and commitment in achieving uniform adherence to these regulations.

The new examination approach and procedures adopted for nationwide use by the banking agencies appear effective. As described in previous testimony, we seek to identify those banking institutions and banking offices where an intensive review would be appropriate, and concentrate our efforts accordingly. This approach not only effectively targets potential problems, but balances costs by avoiding full-scope examination burden in institutions which are in general overall compliance.

The examination begins with a review of management involvement in the administration of bank operations. The institution's internal operating and auditing systems are then analyzed and spot checks of bank records are performed. These results provide the basis from which a determination can be made as to the necessity of proceeding with a more intensive examination.

As appropriate, we institute a more detailed review (known as a Module II Examination) to determine discrepancies and the bank's level of compliance. During 1982, approximately 18 percent of our examinations were carried to the Module II level where examiner efforts focus at teller operations and include a review of all actual transactions for a period of approximately 10 days. When necessary, additional transactions are reviewed. In branch banking systems, several offices are typically visited and subjected to an intensive examination.

Where deficiencies are in evidence, the Corporation utilizes a number of measures to achieve compliance. Most often, deficient procedures are corrected while our examiners are still in the bank. This level of enforcement is considered the most desirable and efficient form of correction. Subsequent visitations are utilized to assure continued compliance.

Occasionally, however, additional followup action is necessary. At the Regional Office level, procedures are in place. The Compliance Examination Program is administered by a single specialist in each Regional Office who serves as a focal point for assuring consistency of approach and interpretation and who is responsible for instituting followup actions. When appropriate, Regional Directors have the authority to enter into a written "Memorandum of Understanding" with a bank's board of directors setting forth specific corrective actions to be taken. This administrative tool was used in 147 instances during calendar year 1981 and approximately 50 so far this year.

In the more severe cases, Cease-and-Desist Orders are issued by the Corporation's Board of Directors. While such actions are rare, we will continue to use this means when necessary.

After approximately two years of experience and concerted effort following the 1980 amendments, we now find that most of the Nation's insured state nonmember banks are in substantial compliance with the Act. Senior level bank management has been made increasingly aware of responsibilities in this area and

that disregard for these regulations will be dealt with forcefully. Senior bank management involvement is particularly important because it is quickly translated to all staff levels of a bank, including the teller line and platform officers who deal directly with the public on a daily basis.

During calendar year 1981 we examined more than 5,800 institutions for compliance with these regulations. This represents approximately 63 percent of the insured institutions under our supervision. The overall cost of such an undertaking is high -- conservatively estimated at \$575,000 for direct examiner related expenses alone in 1981. When other indirect costs are considered, the annual total approximates \$1 million. Based upon our preliminary figures, costs will exceed this level in 1982.

These costs should, however, begin to stabilize -- at least relative to recent increases -- given the fact that the initial "educational phase" has evolved to the point where there is general compliance by most of the institutions supervised. In future periods, we should have even greater flexibility to focus our efforts on particular institutions and on selected geographic areas at a corresponding cost level and without a trade-off affecting overall compliance levels.

We are now seeking to improve our means to better identify where we should concentrate future efforts and to target specific institutions for intensive examination. Cooperative efforts with other enforcement authorities need to

be increased and external methods of detecting large cash movements are needed. The Federal Reserve System is working on such a program. It is expected that the Federal Reserve Bank of Boston will shortly begin to report to our Boston Regional Office any unusual currency shipments involving insured state nonmember banks in New England. As more of our Regional Offices are supplied with such information, the effectiveness of the entire enforcement effort could be further improved.

The Corporation has adopted a posture of cooperation with other affected agencies and assisting whenever feasible. Our Regional Directors have been directed to maximize communication with other agencies and provide examiners to assist criminal investigators with technical advice and guidance and to provide expert testimony when appropriate and as requested. We have assisted or are currently assisting in eight cases involving large currency transaction reporting violations. We will continue to provide such assistance wherever and whenever we can to the extent that such demands do not seriously impede other priority commitments.

While no arrangement has yet been formalized, we have made progress in establishing a dialogue between FDIC's Regional Office staffs and IRS and Customs agents in the various local areas with the objective of accessing information concerning forms 4789 filed by banks that we supervise. We see this type of dialogue to be useful in attempting to target specific banks which are known or suspected by law enforcement agents to be used in facilitating large cash transactions.

If banks that handle large amounts of currency can be externally identified and if information about banks that are suspected to be repositories of currency for suspected individuals can be channeled to our Regional Offices, our examination resources can be concentrated accordingly.

In summary, the FDIC has made a substantial commitment to achieve a high level of compliance with the spirit of the Bank Secrecy Act by the institutions under our supervision. This effort has yielded favorable results, and most bankers are adhering to the regulations. Procedures are in place to effectively deal with those few who are not. We are now in a better position to concentrate our resources where they may produce the best results.

Thank you.