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# BANK SECRECY ACT

## Increased Use of Exemption Provisions Could Reduce Currency Transaction Reporting While Maintaining Usefulness to Law Enforcement Efforts



GAO

Accountability \* Integrity \* Reliability



Highlights of [GAO-08-355](#), a report to congressional committees

## Why GAO Did This Study

To aid law enforcement efforts against financial crimes, under the Bank Secrecy Act (BSA) depository institutions must file the Treasury Department's Financial Crimes Enforcement Network's (FinCEN) currency transaction report (CTR) form on their customers' cash transactions of more than \$10,000. While FinCEN's regulations allow institutions to exempt certain customers, over 15 million CTRs were filed in 2006. Public Law 109-351 directed GAO to report on (1) the usefulness of CTRs to law enforcement; (2) depository institutions' costs of meeting CTR requirements; and (3) ways to encourage use of exemptions to avoid unnecessary CTRs. Among other things, GAO obtained data from FinCEN on CTRs and exemptions from 2004 to 2006, surveyed 115 state and local law enforcement agencies and 680 depository institutions, held structured interviews with officials of federal agencies and depository institutions, and reviewed relevant laws and regulations.

## What GAO Recommends

GAO recommends that the Secretary of the Treasury direct FinCEN to consider routinely publishing summary information on CTR use, revise certain regulations that deter exemptions, and provide additional guidance and Web-based material to help depository institutions interpret exemption requirements. FinCEN concurred with our regulatory and guidance recommendations and stated that it will consider options for providing feedback on CTR use.

To view the full product, including the scope and methodology, click on [GAO-08-355](#). To view the results of GAO's surveys, click on [GAO-08-385SP](#). For more information, contact David G. Wood at (202) 512-6878 or [woodd@gao.gov](mailto:woodd@gao.gov).

## BANK SECRECY ACT

### Increased Use of Exemption Provisions Could Reduce Currency Transaction Reporting While Maintaining Usefulness to Law Enforcement Efforts

#### What GAO Found

According to federal, state, and local law enforcement officials, CTRs provide unique and reliable information essential to a variety of efforts, and recent advances in technology have enhanced law enforcement agencies' ability to use CTR data by integrating it with other information. In addition to supporting specific investigations, CTR requirements aid law enforcement by forcing criminals attempting to avoid reportable transactions to act in ways that increase chances of detection through other methods. Linking law enforcement's use of CTRs to specific outcomes is difficult, however, because agencies do not track their use of CTRs, which are typically one of many information sources used in investigations. FinCEN does not routinely publish summary information on law enforcement uses of CTR data—as it does for other data required under the BSA—that could help depository institutions understand the value of CTRs.

While fewer than 30 of the largest U.S. depository institutions accounted for over half of new CTRs filed during the period GAO examined, all of the nation's approximately 17,000 institutions incur some costs to meet CTR requirements. Institutions must have processes and staff in place to identify when and if a CTR is required, as well as the ability to aggregate same-day cash transactions by or on behalf of the same person; file CTRs correctly; and, if desired, establish and maintain exemptions for certain customers. Institutions GAO contacted were generally unable to quantify these costs, in large part because they use the same processes and staff for other purposes. While automation has made CTR tasks less difficult, almost all institutions reported that they have not completely automated all steps, such as reviews of CTRs by institution officials.

GAO's work identified a number of factors that deter use of exemptions, as well as opportunities for increasing their use, thereby reducing the number of CTRs that are likely of little or no value to law enforcement efforts. As reasons for not exempting eligible customers, institutions cited uncertainty about the documentation required to demonstrate that some customers are in fact eligible, along with concern that federal banking regulators (who examine institutions for compliance with CTR requirements) would find fault. Institutions also cited as deterrents the need to meet FinCEN's regulatory requirements to (1) file an exemption form, and annually review the supporting data, particularly for hundreds of customers that are specifically exempted by statute; and (2) biennially renew eligibility for some customers—a process that as a practical matter duplicates the required annual reviews for those customers. Institution officials indicated that additional guidance from FinCEN, as well as Web-based material to help train their staff in making exemption determinations, could increase the use of exemptions. Removing regulatory deterrents and providing additional guidance and Web-based material could help depository institutions avoid filing unnecessary CTRs without harming law enforcement efforts.

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**Abbreviations**

BSA	Bank Secrecy Act
CBRS	Currency Banking and Retrieval System
CMIR	Report of International Transportation of Currency or Monetary Instruments
CTR	currency transaction report
DEA	Drug Enforcement Administration
FBI	Federal Bureau of Investigation
FDIC	Federal Deposit Insurance Corporation
FinCEN	Financial Crimes Enforcement Network
HIDTA	High Intensity Drug Trafficking Area
HIFCA	High-Intensity Money Laundering and Related Financial Crimes Area
ICE	Immigration and Customs Enforcement
IRS	Internal Revenue Service
NCUA	National Credit Union Administration
OCC	Office of the Comptroller of the Currency
OCDETF	Organized Crime Drug Enforcement Task Force
OTS	Office of Thrift Supervision
TECS	Treasury Enforcement Communications System
SAR	Suspicious Activity Report

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United States Government Accountability Office  
Washington, D.C. 20548

February 21, 2008

The Honorable Christopher J. Dodd  
Chairman  
The Honorable Richard C. Shelby  
Ranking Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Barney Frank  
Chairman  
The Honorable Spencer Bachus  
Ranking Member  
Committee on Financial Services  
House of Representatives

To assist law enforcement agencies in their efforts to combat money laundering, the financing of terrorist activities, and other crimes, financial institutions are required to provide the federal government with information on customers engaging in certain currency transactions under the Bank Secrecy Act (BSA).<sup>1</sup> Among other things, the BSA—administered by the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN)—and its implementing regulations require financial institutions to file currency transaction reports (CTR) when their customers make large cash transactions, currently defined by regulation as those exceeding \$10,000.<sup>2</sup> In 2006, the government received about 15 million CTRs, the vast majority of which were filed by depository institutions (banks, thrifts, and credit unions).

<sup>1</sup>Pub. L. No. 91-508, titles I and II, 84 Stat. 1114 to 1124 (Oct. 26, 1970), as amended, *codified at* 12 U.S.C. §§ 1829b, 1951-1959, and 31 U.S.C. §§ 5311 *et seq.*

<sup>2</sup>31 U.S.C. § 5313(a); 31 C.F.R. § 103.22(b).

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To reduce the number of CTRs with limited usefulness to law enforcement efforts, in 1994 Congress enacted provisions allowing depository institutions to exempt two broad categories of customers that meet specified criteria.<sup>3</sup> For these exempted customers, the institutions do not have to file CTRs, because the customers' cash transactions would likely be of little or no value to law enforcement efforts. First, the law required FinCEN to provide appropriate exemptions for customers that are another depository institution; governmental entities, including state and local governments; certain other entities exercising U.S., state, and local governmental authority; and "any business or category of business the reports on which have little or no value for law enforcement purposes," which FinCEN has defined through regulations to generally include companies that are listed on any of three stock exchanges (listed companies) and subsidiaries that are 51 percent or more owned by a listed company. Second, the law authorized FinCEN to establish, through regulation, exemptions for "qualified business customers" that maintain an account at the depository institution, frequently engage in large cash transactions, and meet other criteria specified by regulation. FinCEN's regulations provide that certain qualified business customers may not derive more than 50 percent of their gross revenue from activities or lines of business specifically deemed ineligible, such as the purchase or sale of automobiles or gaming of most kinds. Because FinCEN promulgated the regulations for these two categories in separate rule-making phases, the exemptions are commonly referred to as "Phase I" and "Phase II" exemptions, respectively.<sup>4</sup> It is up to the depository institutions as to whether they actually exempt each of their customers who are eligible for exemption; if they do, the institutions must file an exemption form documenting the customer's eligibility and must review and verify eligibility at least once each year.

Depository institutions have expressed concerns about the cost and effort required to meet CTR filing requirements—including the steps needed to establish and maintain exemptions for their customers—as well as doubts about the usefulness of CTRs to law enforcement agencies. They note that they are also required, under the BSA, to file with FinCEN Suspicious Activity Reports (SAR) in cases of certain transactions that may involve

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<sup>3</sup>The Money Laundering Suppression Act of 1994, Pub. L. No. 103-325, title IV, 108 Stat. 2243 (Sept. 23, 1994). See 31 U.S.C. § 5313(d) (mandatory exemptions) and (e) (discretionary exemptions).

<sup>4</sup>62 Fed. Reg. 47141 (Sept. 8, 1997) and 63 Fed. Reg. 50147 (Sept. 21, 1998).

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violations of law or regulation, including money laundering. However, law enforcement officials have maintained that the CTR requirements help deter money laundering and that CTRs provide information that is highly useful to their investigations. Data from CTRs are aggregated and stored electronically in a large database accessible to law enforcement agencies and maintained for FinCEN by the Internal Revenue Service (IRS). The database also includes information about customers for which institutions have filed exemption forms.

The Financial Services Regulatory Relief Act of 2006 required that we examine several aspects of CTRs, including their usefulness to law enforcement and the burden on depository institutions filing them, and to determine whether CTR filing rules could be modified without harming law enforcement operations.<sup>5</sup> This report discusses (1) the usefulness of CTRs to federal, state, and local law enforcement agencies; (2) the costs to depository institutions of meeting CTR requirements; and (3) factors that affect depository institutions' decisions to exempt or not exempt eligible customers, including opportunities for encouraging use of exemptions while maintaining the usefulness of CTR data to law enforcement agencies.

To examine the usefulness of CTRs to federal, state, and local law enforcement agencies, we first obtained data from both FinCEN and IRS indicating the frequency of access to the CTR database by specific agencies. We conducted structured interviews with officials of 12 federal agencies and organizations—including those that most frequently accessed CTR data in 2006, such as FinCEN, IRS, the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), and the U.S. Department of Homeland Security's Immigration and Customs Enforcement (ICE). In addition, we used a Web-based instrument to survey all 115 state and local law enforcement agencies that had access to CTR data as of May 2007; our overall response rate was 77 percent. We supplemented the survey by interviewing officials of 12 state and 5 local law enforcement agencies, selected to achieve a mix of agencies that had accessed CTR data frequently and agencies that had not. We asked officials at the law enforcement agencies to identify how information provided by CTRs is useful to their efforts and how technological changes have affected the use of CTR data. To understanding filing trends and obtain information on depository institutions' costs to meet CTR requirements, we first analyzed FinCEN's CTR and exemption data covering 3 calendar years—

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<sup>5</sup>Pub. L. No. 109-351 § 1001, 120 Stat. 1966, 2007-2009 (Oct. 13, 2006).



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2004, 2005, and 2006—to identify the numbers of CTRs and exemptions filed by depository institutions of different sizes. For this purpose, we established four size categories (based on the dollar value of institutions' assets) for banks and thrifts and three categories for credit unions.<sup>6</sup> To obtain specific information on the costs of meeting CTR requirements, we conducted 35 structured interviews with officials of depository institutions of different sizes. We asked the officials whether they use manual or automated processes and what costs they incur to meet CTR requirements, including the costs of filing individual CTRs and exemption forms. Finally, to identify the factors affecting depository institutions' exemption decisions, as well as opportunities for potentially increasing the use of exemptions, we used a Web-based instrument to survey 680 of the 3,880 depository institutions that filed at least 120 CTRs in 2006, stratified by asset size category. Our overall response rate was 68 percent. When presenting the survey results, all percentage estimates in this report have 95 percent intervals of within plus or minus 8 percentage points of the estimate, unless otherwise noted. This report does not contain all of the results of our surveys of law enforcement agencies and depository institutions, but the surveys and a more complete tabulation of the results can be viewed at <http://www.gao.gov/cgi-bin/getrpt?GAO-08-385SP>. We also analyzed statutory and regulatory filing requirements and interviewed officials and examiners from the five federal banking regulators to obtain their viewpoints on the difficulties, if any, institutions might confront in meeting the CTR and exemption filing requirements.<sup>7</sup> We also obtained data on BSA examinations conducted by each of the regulators for 2005 and 2006, particularly data on their citations of depository institutions for noncompliance with CTR requirements. Additional details on our methods are presented in appendix I. We conducted this performance audit from November 2007 through February 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to

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<sup>6</sup>See appendix I for more information on the asset size categories. We included only three categories of credit unions because they are generally smaller institutions, compared with banks and thrifts; further, credit unions filed less than 2 percent of all CTRs filed by depository institutions from 2004 through 2006.

<sup>7</sup>To ensure compliance with the BSA and other laws and regulations, banks, thrifts, and credit unions are subject to oversight (including on-site examinations) at the federal and state level. Federal regulators of these institutions include the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration. In this report, we refer to these agencies as the federal banking regulators.

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provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Results in Brief

Federal, state, and local law enforcement officials we interviewed and surveyed described a variety of ways in which CTR requirements are useful to their efforts; however, measuring their impact is difficult. Recent advances in technology, along with FinCEN's distribution of BSA data in bulk to certain federal agencies, have enhanced the ability to access and integrate CTR data with information from other sources. According to law enforcement officials, CTRs provide unique and reliable information that is essential to supporting investigations and detecting criminal activities, in part because CTRs provide information that is often unavailable elsewhere or is more objective or up-to-date than that obtained from other sources. In addition to supporting individual cases, law enforcement agencies use aggregated CTR data to help detect patterns or trends; for example, FinCEN analysts routinely analyze CTR data in conjunction with other information to develop "big picture" views of suspicious financial activity. Law enforcement officials noted that CTR requirements also aid their efforts by making it more difficult for criminals to get their illicit proceeds into the financial system and forcing them to act in ways that increase chances of detection—such as smuggling cash or "structuring" their cash transactions to avoid CTRs, which often prompts depository institutions to file a Suspicious Activity Report. Linking law enforcement's use of CTRs to specific impacts is difficult, however, because agencies do not track their use of CTRs, which are typically one of many sources of information used to support investigations. FinCEN does not routinely publish any summary information on law enforcement's use of CTR data—such as identified trends and case examples—as it does for Suspicious Activity Reports. Although concerns about revealing investigatory sources and methods limit dissemination of detailed information on how law enforcement agencies use CTR data, our interviews with financial institution officials suggest that they would better understand the value of meeting their requirements if the institutions were provided with similar summary information on CTR use.

Our analysis of CTR data for 2004 to 2006 shows that a large proportion was filed by a small number of the largest depository institutions—for example, fewer than 30 very large banks accounted for 55 percent of new CTRs during the period—and while these institutions likely incur the greatest expenditure of time and resources to meet CTR requirements, all

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depository institutions incur some costs regardless of the number of CTRs they file. This is because institutions must have processes and trained staff in place to identify when and if a CTR is required, including the ability to aggregate same-day cash transactions made by or on behalf of the same person, and to file CTRs correctly. While automation has made these tasks less difficult, most institutions reported that their processes still include “manual” steps; for example, most institutions reported that their CTRs are reviewed by branch managers or compliance officers before being sent electronically to FinCEN or by mail to IRS. Institutions we contacted were generally unable to quantify their costs for meeting CTR requirements, in large part because they use the same personnel and processes for meeting other BSA requirements or for other purposes and do not separately account for CTR-related costs. However, they noted that personnel costs include the cost of training staff on meeting CTR requirements, as well as the cost of labor involved in filing CTRs. Reflecting the range of numbers of staff that may be involved, officials provided a wide variance of estimated personnel costs. For example, while one very large bank that filed almost 1 million CTRs in 2006 estimated personnel costs, including tellers and compliance officers, of about \$5.4 million, a large bank that filed just under 5,000 CTRs in 2006 estimated personnel costs at \$76,000. Officials at institutions with automated processes also cited technology as a significant cost.

Our survey of depository institutions and interviews with officials identified a variety of factors that deter the use of exemptions, as well as opportunities for increasing their use without diminishing the usefulness of CTR requirements to law enforcement. Our survey results showed that many financial institutions with customers considered eligible for exemptions do not actually exempt them, but instead continue to file CTRs on the customers’ transactions—despite the institutions’ recognition that making use of the exemption provisions would enable them to file fewer CTRs. The reasons they cited included uncertainty about the documentation needed to demonstrate that certain customers are in fact eligible for exemptions, accompanied by concern that the federal banking regulators would deem the documentation insufficient and cite them for noncompliance with BSA requirements. For example, depository institutions that chose to use the Phase II exemption relied on various methods—sometimes to a considerable extent—to determine and document the portion of the customer’s revenues derived from ineligible activities, including asking the customer for financial statements, tax records, or other documentation such as a letter certifying its revenue sources. While our review of data from the banking regulators showed

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relatively few violations compared with the number of BSA examinations conducted, we found variations in the types of documentation the regulators find acceptable. For example, officials from two of the banking regulators said that a letter from a customer self-certifying its revenue sources could be acceptable to document eligibility for a Phase II exemption, while officials from two other regulators indicated that such a letter alone would be inadequate documentation. Both the difficulties cited by the institutions and the variation among examiners indicate that further CTR guidance from FinCEN could be helpful in this regard. Other factors discouraging the use of exemptions were the cost and effort involved in meeting FinCEN's regulatory requirements to (1) file an exemption form, and annually review and update the information, particularly for certain customers that are required to be exempted by statute as appropriate; and (2) biennially file a form to document the continued eligibility of customers that have been exempted under the Phase II regulation, which many institutions viewed as redundant in light of the required annual review process. Eliminating these requirements could encourage institutions to make greater use of exemptions. Other opportunities to encourage the use of exemptions include (1) shortening the waiting period—currently a full year under FinCEN's regulations—before exempting certain customers with frequent cash transactions that exceed the \$10,000 threshold, and (2) making available from FinCEN Web-based material to help train and guide depository institutions' staff in making exemption determinations. While FinCEN currently provides such material—such as answers to frequently asked questions, rulings, and guidance—for other BSA requirements, the information on CTR exemption requirements is very limited; and about 50 percent of respondents to our survey indicated that the availability of such Web-based material from FinCEN would increase their use of exemptions. Because the transactions of exempt customers are likely to be of little or no value to law enforcement, these actions could avoid the burden of filing some CTRs without harming law enforcement efforts.

We are recommending that the Secretary of the Treasury direct FinCEN to consider routinely publishing summary information on law enforcement uses of CTRs, provide additional guidance on the documentation needed to demonstrate eligibility for some customers, revise certain regulations that deter exemptions, and provide Web-based material to help depository institutions interpret exemption requirements. In written comments on a draft of this report, the Director of FinCEN concurred with our recommendations seeking regulatory amendments and those related to guidance and materials to aid industry in making eligibility determinations for CTR exemptions, and said that FinCEN will consider options to provide

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industry with additional feedback on the use of CTRs by law enforcement. We also received written comments from the Board of Governors of the Federal Reserve System (Federal Reserve), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), and Office of Thrift Supervision (OTS) that, in a joint letter, reaffirmed their support for effective administration of the BSA and said they believe that streamlining and clarifying the exemption regulations, as we recommend, would be a positive step.

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## Background

According to BSA's objectives, CTRs are to have a "high degree of usefulness" and their uses include criminal, tax, or regulatory investigations or proceedings. In 2001, the USA PATRIOT Act added a fourth purpose: the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.<sup>8</sup> CTRs are intended to provide a paper trail for federal, state, and local law enforcement agencies in their investigations and, thus, potentially hinder using financial institutions as intermediaries for the transfer or deposit of money derived from criminal activity.<sup>9</sup> A CTR records account cash withdrawals and deposits, as well as currency exchanges, and wire transfers purchased with cash, when the amount of the transaction is more than \$10,000. In addition to the dollar amount of the cash transaction, a CTR records information about the account owner, including the owner's occupation, and the identity of the person actually conducting the transaction (the conductor), if not the account holder. A depository institution must file a CTR for transactions that collectively exceed \$10,000 during the course of a day if the institution has knowledge that they are for or on behalf of the same person.

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<sup>8</sup>The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Pub. L. No. 107-56 § 358, 115 Stat. 272, 326 (Oct. 26, 2001). We refer to the act as the USA PATRIOT Act.

<sup>9</sup>In addition to depository institutions, casinos, money services businesses, and futures commission merchants are required to file currency transaction reports. Money services businesses are businesses that, among other things, transmit money; cash checks; issue, sell, or redeem traveler's checks or money orders; or deal or exchange currency.

The Money Laundering Suppression Act of 1994 provided basic criteria for establishing and maintaining exemptions and authorized Treasury to establish further requirements.<sup>10</sup> FinCEN has done so through both regulations and “interpretative letters” that supplement the regulations to provide further guidance. Table 1 summarizes the requirements as outlined in the statute, implementing regulations, and interpretive letters.

**Table 1: Statutory and Regulatory Provisions That Determine Which Customers May Be Exempted**

<b>Statutory provision</b>	<b>Regulatory provision</b>
<b>Customers eligible for exemptions under Phase I</b>	
Another depository institution.	A bank, to the extent of such bank’s domestic operations.
A department or agency of the United States, any state, or any political subdivision of any state.	The same as statutory provision.
Certain other entities exercising governmental authority on behalf of the United States, any state or political subdivision of any state.	The same as statutory provision.
Any business or category of business the reports on which have little or no value for law enforcement purposes.	Any entity, other than a bank, whose common stock is listed on the New York, American, or NASDAQ Stock Exchange, with some exceptions (a “listed entity”); and any subsidiary, other than a bank, of any “listed entity” that is organized under U.S. law and at least 51 percent of whose common stock is owned by the listed entity.  A nonbank financial institution meeting these criteria may be extended only to the extent of its domestic operations.
<b>Eligibility criteria for business customers under Phase II</b>	
Maintains a transaction account at the depository institution, and	A commercial enterprise that has maintained a transaction account at the bank for at least 12 months.
Frequently engages in transactions with the depository institution that are subject to the CTR reporting requirements, and	Frequently (defined in an Interpretive Letter as at least 8 times within a 12-month period, excepting certain “seasonal” customers) engages in cash transactions in excess of \$10,000.
Meets other criteria which the Secretary determines are sufficient to ensure the purposes of the BSA are carried out.	Is incorporated or organized under U.S. law, or state law, or is registered as and eligible to do business in the United States or a state, to the extent of its domestic operations, and to the extent that no more than 50 percent of its gross revenues come from activities specified as non-eligible business activities.

<sup>10</sup>Prior to the 1994 law, Treasury had procedures in place for filing CTR exemptions, but they were considered cumbersome and difficult to understand. H. R. Conf. Rep. No. 103-652 (1994), *reprinted in* 1994 U.S.C.C.A.N. 1977, 2016. *See also* 61 Fed. Reg. 18204, 18205 (Apr. 24, 1996).

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Statutory provision	Regulatory provision
<b>Customers not eligible for exemption</b>	
FinCEN must establish guidelines, which may include a description of the type of business for which no exemption will be granted.	Businesses for which no exemption as a nonlisted business will be granted are those engaged primarily in <ul style="list-style-type: none"><li>• serving as financial institutions or agents thereof;</li><li>• purchase or sale of motor vehicles, vessels, aircraft, farm equipment or mobile homes;</li><li>• practice of law, accountancy, or medicine;</li><li>• auctioning of goods;</li><li>• chartering or operation of ships, buses, or aircraft;</li><li>• gaming of any kind (other than pari-mutuel betting at race tracks)</li><li>• investment advisory services or investment banking services;</li><li>• real estate brokerage;</li><li>• pawn brokerage;</li><li>• title insurance and real estate closing;</li><li>• trade union activities; and</li><li>• any other activities that may be specified by FinCEN</li></ul>

Source: GAO analysis of 31 U.S.C. § 5313(d) and (e), and 31 C.F.R. § 103.22(d).

Note: Phase II exemptions also include a second category referred to as “payroll businesses,” which are defined in 31 U.S.C. § 103.22(d)(2)(vii).

Legislative proposals would alter the basis for establishing exemptions, as well as raise the reporting threshold amount above \$10,000. For example, in January 2007, the U.S. House of Representatives passed the Seasoned Customer CTR Exemption Act of 2007 (H.R. 323), which would require the Secretary of the Treasury to (1) prescribe regulations for exempting “qualified customers,” including criteria for suspending, rejecting, or revoking exemptions; and (2) periodically review the threshold amount and adjust it for inflation as appropriate. H.R. 1447, the CTR Modernization Act, introduced in March 2007, would raise the threshold amount for insured depository institutions to \$30,000.

FinCEN’s role is to oversee administration of the BSA throughout the federal government. Pursuant to this role, FinCEN, among other things, develops policy and provides guidance to other agencies and analyzes BSA data for trends and patterns. FinCEN relies on the regulators of depository institutions—the Federal Reserve Board (Federal Reserve), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), and Office of Thrift Supervision (OTS)—to ensure that depository institutions comply with BSA reporting requirements. In addition to CTRs, depository institutions are required by BSA and its implementing regulations to make available information on their customers’ transactions in certain circumstances:

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- Depository institutions are required to file Suspicious Activity Reports (SAR) with FinCEN if a transaction involves or aggregates at least \$5,000 in funds or other assets, and the institution knows, suspects, or has reason to suspect that the transaction is designed to evade any requirements of the BSA.<sup>11</sup>
  - Under Section 314(a) of the USA PATRIOT Act, federal law enforcement agencies, through FinCEN, can reach out to financial institutions to locate accounts and transactions of persons suspected of engaging in terrorism or money laundering.<sup>12</sup>

FinCEN is responsible for providing these agencies with assistance in educating institutions on their BSA responsibilities. To focus and direct their efforts in supporting the effectiveness of BSA compliance, FinCEN's strategic plan for fiscal years 2006-2008 outlines several goals. For example, to assist law enforcement, the plan calls for FinCEN to reduce the number of CTRs filed on legitimate financial transactions that are of little or no value to law enforcement; and, to assist financial institutions, the plan calls for FinCEN to revise its data collection forms, regulations, and practices to ensure that FinCEN collects the information necessary to meet its mission while minimizing reporting burdens on the financial industry. In addition, FinCEN indicated in its plan that it would consider providing guidance on BSA requirements through written and Web-based materials and by means of a call center to respond to specific questions.

FinCEN, together with the IRS, is responsible for managing and storing the BSA data that financial institutions report. Financial institutions that submit CTRs in paper form mail them directly to IRS's Enterprise Computing Center in Detroit. Institutions that submit data electronically transmit them directly to FinCEN, which in turn transmits them to the

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<sup>11</sup>31 U.S.C. § 5318(g)(1) and 31 C.F.R. §§ 103.15–103.21. Depending on the type of financial institution, the threshold amount may vary. For example, money services businesses generally must file a SAR if a transaction involves or aggregates \$2,000 in funds or other assets. 31 C.F.R. § 103.20. SAR forms must be filed for certain suspicious transactions involving possible violation of law or regulation, including transactions that are broken up for the purpose of evading the BSA reporting and recordkeeping requirements. *See* FinCEN Ruling 2005-6 Suspicious Activity Reporting (Structuring) (July 15, 2005).

<sup>12</sup>Additionally, Section 314(a) of the USA PATRIOT Act required the Secretary of the Treasury to adopt regulations to encourage regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in, or reasonably suspected of engaging in, terrorist acts or money laundering activities.



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center. The center collects and stores all BSA data in its Currency Banking and Retrieval System (CBRS).<sup>13</sup> For fiscal year 2007, the IRS estimated the total cost of processing CTRs to be about \$7 million, including about \$3.5 million to convert CTRs submitted on paper to an electronic format. IRS examiners and investigators access BSA data directly through IRS's Intranet, while FinCEN has a direct connection to the Enterprise Computing Center. Staff at other law enforcement agencies can access BSA data via the Internet, and certain federal agencies also periodically receive bulk data downloads of BSA data for use at their agencies, as described later in this report.

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## CTR Requirements Are Useful to Law Enforcement Efforts in a Variety of Ways, but Measuring Their Impact Is Difficult

Federal, state, and local law enforcement officials we interviewed and surveyed said that information in CTRs provided unique and reliable information essential to a variety of efforts and that recent advances in technology, along with FinCEN's distribution of BSA data in bulk, have enhanced their ability to use and analyze CTR information. Law enforcement officials stated that, in addition to supporting specific investigations, CTR requirements aid their efforts by making it more difficult for criminals to get their illicit proceeds into the financial system and forcing them to act in ways that increase chances of detection. Linking law enforcement's use of CTRs to specific outcomes is difficult, however, because agencies do not track their use of CTRs, which are typically one of many sources of information used to support investigations. FinCEN does not routinely publish any summary information on law enforcement's use of CTR data as it does for Suspicious Activity Reports, such as identified trends and case examples. Although concerns about revealing investigatory sources and methods limit dissemination of detailed information on how law enforcement agencies use CTR data, our interviews with depository institution officials suggest that they would better understand the value of meeting their requirements if the institutions were provided with similar summary information on CTR use.

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<sup>13</sup>For more information on the center's activities, see GAO, *Bank Secrecy Act: FinCEN and IRS Need to Improve and Better Coordinate Compliance and Data Management Efforts*, GAO-07-212 (Washington, D.C.: Dec. 15, 2006).

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## CTRs Provide Unique Information for Investigating Cases and Detecting Criminal Activities

In part due to advances in technology that have enhanced access to, and analysis of, CTR data, law enforcement officials use CTR data to help investigate a variety of crimes, including tax evasion, customs violations, and drug trafficking. They use CTR data both “reactively”—that is, to support existing investigations of one or more suspects—and “proactively”—to analyze patterns or trends that can serve as the basis for initiating new investigations.

## Technological Advances Have Increased Access and Analytic Capability

In 1993, we reported that CTRs were not used to their full extent by law enforcement agencies because the large volume of reports made meaningful analysis difficult and access to the data, particularly at the state level, was limited and cumbersome.<sup>14</sup> However, access to BSA data at the federal, state, and local levels has improved and technological advances have made meaningful analysis of large BSA data sets possible. Consistent with its strategic goal of facilitating information sharing through electronic means, FinCEN has increased access to CTR (and other BSA) data in two ways.

First, FinCEN began providing selected federal agencies with access to “bulk” CTR data—essentially all of the data resulting from CTRs. In 2004, FinCEN first provided the FBI with bulk transfer of data, and during 2005 and 2006 FinCEN agreed to provide two federal agencies—the Secret Service and ICE—and a multiagency program established by the Department of Justice (the Organized Crime Drug Enforcement Task Force, or OCDETF Fusion Center) with access to a bulk data set.<sup>15</sup> Receiving these data in bulk, rather than accessing the database remotely and querying it for specific records, allows agencies to conduct more sophisticated analyses by combining the BSA data with other data sets, as can be seen in the following examples.

- The FBI has combined bulk BSA data into its Investigative Data Warehouse, a collection of more than 50 multisource data sets that

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<sup>14</sup>GAO, *Money Laundering: The Use of Bank Secrecy Act Reports by Law Enforcement Could Be Increased*, [GAO/T-GGD-93-31](#) (Washington, D.C.: May 26, 1993).

<sup>15</sup>The Department of Justice established the OCDETF program in 1982 to conduct comprehensive attacks on major drug trafficking and money laundering organizations. This program combines the resources and expertise of several federal agencies, including DEA, IRS, FBI, and ICE. The OCDETF Fusion Center stores drug and related financial investigative information for analysis. ICE officials noted that while it participates in OCDETF, it does not participate in the Fusion Center.

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includes counter terrorism data. According to the FBI, access to BSA bulk data has significantly increased its usage of CTR data (the bureau reported data that indicated approximately 194,000 CTR views from 2004 through 2006 of the downloaded data). According to FBI officials, about 40 percent of all FBI terrorism subjects appeared on CTRs that were filed between January 1, 2000, and June 30, 2006; further, CTR data were the most viewed data in the warehouse.

- OCDETF's Fusion Center integrated bulk BSA data with drug, financial, and gang-related investigative data provided by several other federal, state, and local law enforcement agencies. According to OCDETF officials, as of June 2007, CTR data had appeared in 61 percent of the Fusion Center's analytical products.
- ICE has combined BSA data with import and export data for selected countries to help identify and detect discrepancies or anomalies in international commerce that might indicate trade-based money laundering.

Second, FinCEN improved Internet access to CTR data. FinCEN provides and grants access using its "Gateway" program, through which law enforcement staff may access the database using a system known as WebCBRS.<sup>16</sup> With WebCBRS, users can download large volumes of CTR data—up to 20,000 CTRs on a single query—and export it to a spreadsheet application, such as Excel. This allows users to more readily conduct proactive analyses, such as identifying transaction trends by categories. Most of the law enforcement officials with whom we spoke, as well as officials of state and local agencies we surveyed, confirmed that WebCBRS is more user friendly than its predecessor and has greatly improved their ability to search for and analyze CTR data.<sup>17</sup> (More detailed information about the technological advances enabling greater use of CTR data, along with examples of use in specific investigations, is presented in appendix II. Our survey of law enforcement agencies and a more complete tabulation of the results can be viewed at <http://www.gao.gov/cgi-bin/getrpt?GAO-08-385SP>.)

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<sup>16</sup>Agencies without direct Gateway access may visit FINCEN's offices and access BSA data directly; these users are referred to as "platform users."

<sup>17</sup>About 79 percent of survey respondents reported that WebCBRS had made a "very great" or "great" improvement in their ability to access CTR data, as measured by "ease of use" or "query response time."

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Perhaps reflecting improvements in the ability to access and analyze CTR data, the number of agencies using CTR data has increased, and officials at some agencies noted that they have incorporated a search of CTR data as a routine part of their investigations. For example, from 2004 through 2006, the number of agencies that viewed CTR data through the Gateway program increased from 109 to 136 and, as of October 2007 requests from an additional 110 agencies for access to CTR data were pending FinCEN's review.

### Agencies Value CTRs as a Source of Unique, Reliable, and Timely Data

Officials from law enforcement agencies we interviewed emphasized that CTRs are important because they provide information that is often unavailable from other sources, or is more objective or up-to-date than that obtained from other sources. They cited ways in which CTRs provide more comprehensive or timely information about a suspect's banking transactions than they can obtain using other provisions of law.

More specifically, law enforcement officials frequently identified the name of the currency transaction's conductor—the person who actually carries out a cash transaction at a financial institution, but who is not the holder of the affected accounts—as useful information that is unique to CTRs. For example, an FBI official noted a case in which analysis of information obtained by searching the CTR database conductor field provided the agency with the investigative lead needed to track the banking activities of persons who, according to the FBI official, were involved in a cocaine distribution ring. The conductor information was useful because the main person under investigation in the ring had associates open bank accounts in their own names at different banks and then made large currency transactions into these accounts, resulting in CTRs that recorded the main person under investigation as the conductor. Further, FinCEN and other law enforcement officials explained that because multiple individuals may use the same account to conduct transactions, CTRs often could be used to identify unknown persons associated with suspects, thereby expanding the scope of investigations. For example, during a 4-year FBI investigation, analysis of CTRs showed where suspects were banking as they opened and closed accounts, and on which day of the week suspects typically made their deposits, allowing the FBI to better plan its surveillance.

Law enforcement officials also noted that CTRs provide a unique source of information on the occupations of account holders that often proves useful. For example, a DEA official reported that analyzing CTRs by the information in the occupation field has allowed him to identify whether medical companies or doctors—lines of businesses that typically would not

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be dealing in high volumes of cash—were diverting controlled substances for illegal use. Finally, officials from several federal law enforcement agencies, including the Bureau of Alcohol, Tobacco, Firearms, and Explosives, IRS-Criminal Investigation, ICE, and DEA, commented that because depository institutions are required to file CTRs soon after a reportable transaction occurs, the CTR database provides up-to-date information on large cash transactions.<sup>18</sup> Many federal, state, and local officials we interviewed commented that CTRs provided them with ready access to information that they could not otherwise obtain in a timely manner.

Officials contrasted these useful aspects of information from CTRs with information they may be able to obtain on suspects' banking activities under other provisions of the BSA or other laws:

- Suspicious Activity Reports (SAR) also provide useful information; however, depository institutions have some discretion in determining whether a transaction or customer is “suspicious,” and therefore the institutions determine whether to file a SAR and, if so, what information to include. Thus, a SAR might not capture the same level of information about specific transactions that a CTR routinely would provide. Further, criminals may use several different banks to conduct their transactions, and a SAR would reflect the suspicious activity only within the bank filing the SAR.
- The Section 314(a) process, under which federal law enforcement agencies may reach out to financial institutions to locate accounts and transactions of persons of interest, is reserved for significant money-laundering or terrorist-financing investigations, and agencies may make such requests only upon approval by FinCEN, which limits the number of subjects on the list. Further, according to FinCEN, the request provides lead information only—law enforcement agencies must meet the legal standards that apply to the investigative tool that it chooses to use to obtain documents, such as a subpoena. In addition, officials at FinCEN and the IRS noted that the 314(a) process provides law enforcement access only to transactions conducted within the last 6

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<sup>18</sup>A completed CTR must be filed with FinCEN within 15 days after the date of the transaction (31 C.F.R. § 103.27(a)(1)). Treasury has determined that CTRs filed on magnetic media or electronically will be considered filed in a timely manner if received within 25 days.

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months, or accounts held within the last 12 months, while the CTR (and other BSA) data provide access to data going back 10 years.

- Obtaining bank records through subpoenas could take months or be difficult. Further, in order to subpoena a specific institution, officials would need to know that a suspect banked at that institution. A majority (55 percent) of the state and local law enforcement officials we surveyed noted that it would be “somewhat more” or “much more” difficult to obtain information from bank records in this fashion than from using CTRs.
- Other methods of obtaining information about a suspect’s bank accounts—including “mail covers” (copies, obtained from the U.S. Postal Service, of the fronts of envelopes delivered to a suspect), subpoenas for credit reports, and surveillance—are time consuming and less likely to provide needed information about a bank account, according to law enforcement officials. ICE and state officials from New York and Texas noted that their agencies could wait days to obtain mail covers, with no guarantee of receiving one bearing an address of the suspect’s financial institution. New York state law enforcement officials said that the next best alternative would be to subpoena a suspect’s credit report, a process that could take 30 days. While the credit report may provide useful leads—for example, a suspect’s mortgage application—that the agency might then subpoena, the time required would further lengthen the investigation.

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## Agencies Reported Using CTR Data to Support a Wide Variety of Investigative Cases

Most officials of law enforcement agencies we contacted indicated that they most often use CTRs reactively, and many routinely review CTRs at the beginning of each investigation.<sup>19</sup> For example, tax investigators in IRS routinely query BSA data to identify CTRs with information that suggests situations such as a business paying employees in cash (and thus not withholding taxes). However, law enforcement agencies typically did not use CTRs in isolation to develop a case; rather, they used CTR data to identify leads for further investigation, in part by comparing CTR information with information from other sources. As explained by law enforcement officials, the information in CTRs is useful in corroborating information contained in other BSA reports. For example, agencies may compare information from the CTR database to that obtained from Reports of International Transportation of Currency or Monetary Instruments (CMIR), which report currency transported into the United States, to track how businesses dispose of cash.<sup>20</sup> Agencies also consult CTR data to obtain more detailed information after reviewing SARs. For example, officials from a High Intensity Money Laundering and Related Financial Crimes Areas (HIFCA) noted that they used CTR data for 105 of the 120 reports they filed over a recent 1-year period on investigations initiated after reviewing SARs.<sup>21</sup> In this regard, many law enforcement officials, including those from ICE, IRS, and the U.S. Attorney's office, noted that raising the CTR filing threshold of \$10,000 would affect adversely their ability to deter money laundering, because the CTR threshold corresponds to those set in other anti-money-laundering provisions. For example, officials from the U.S. Attorney's office indicated that the CTR threshold works in tandem with three other statutorily mandated reporting thresholds, which

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<sup>19</sup>About 55 percent of the survey respondents tended to use CTR data more reactively than proactively, and 28 percent used CTR data completely reactively.

<sup>20</sup>Individuals or businesses are required to file a CMIR to report the transportation, whether physically or through the mail, of currency or other monetary instruments into or out of the United States, on any one occasion, in excess of \$10,000. (31 U.S.C. § 5316; 31 C.F.R. § 103.23).

<sup>21</sup>HIFCAs were conceived in the Money Laundering and Financial Crimes Strategy Act of 1998 as a means of concentrating law enforcement efforts at the federal, state, and local levels in areas of high-intensity money laundering. HIFCAs were first announced in the 1999 National Money Laundering Strategy. Pub. L. No. 105-310, 112 Stat. 2941 (Oct. 30, 1998) *codified at* 31 U.S.C. §§ 5340-5342 and 5351-5355.

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are also set at \$10,000: the CMIR requirement; the Form 8300 requirement; and the bulk cash smuggling statute.<sup>22</sup>

That no CTRs have been filed on business activities that might be expected to generate them also provides valuable leads to law enforcement. For instance, FinCEN, ICE, and DEA conduct analyses comparing known cash flows documented through other sources with cash flows they would expect CTRs to document. Officials at both FinCEN and ICE reported that a search of BSA data for information on a cash business revealing no CTRs could alert investigators that the business was not using traditional depository institutions and direct their focus to nonbank financial institutions such as money services businesses or to the possibility of currency smuggling. Similarly, the lack of CTRs relating to particular individuals or businesses can provide investigative leads. For example, officials from FinCEN and a Florida law enforcement agency said that the presence of a CMIR, coupled with an absence of related CTRs, could provide intelligence that currency transported into the country was subsequently laundered into the financial mainstream through “structuring” (making a series of cash transactions in amounts less than \$10,000). Another law enforcement official from Florida indicated that a lack of CTRs corroborated findings from her agency’s surveillance operations that certain laundromats, dry cleaners, and travel agencies had laundered millions of dollars.

As shown in figure 1, the state and local law enforcement agencies we surveyed found CTRs to be of most use when developing leads for existing investigations. Officials from law enforcement agencies in California, New York, and Texas—states that were among the highest users of CTR data—indicated that their investigators typically used CTRs to identify a subject’s bank account numbers and associates who might be conducting transactions on behalf of the subject. An official from one of these agencies indicated that no other source of information enabled investigators to

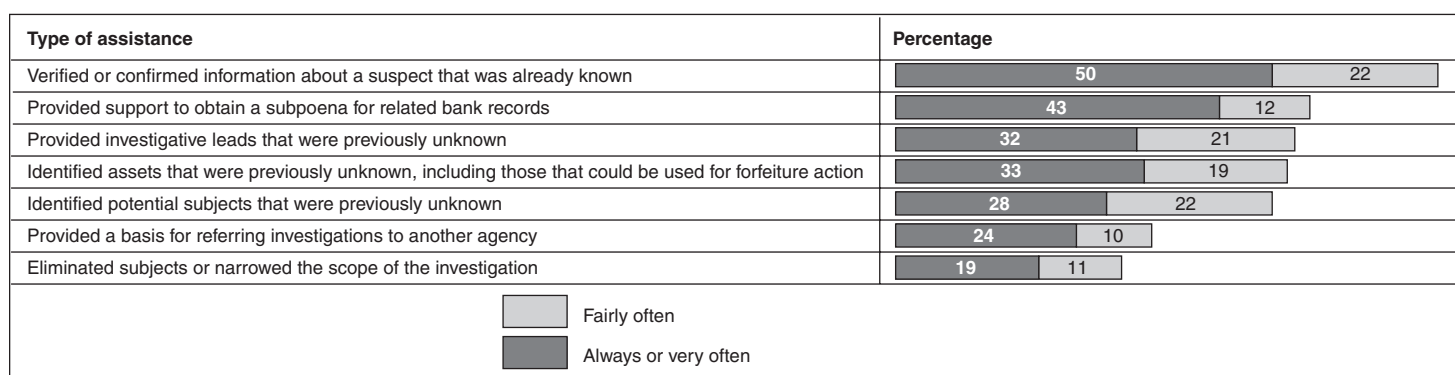
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<sup>22</sup>Under BSA provisions, individuals involved in trades or businesses that are not financial institutions—such as car dealerships or jewelers—are required to file a Form 8300 to report a cash payment over \$10,000. (31 U.S.C. § 5331). The USA PATRIOT Act created a new money laundering offense: bulk cash smuggling. The new statute prohibits the concealment and transfer of more than \$10,000 across the border with the intent to evade reporting requirements. (31 U.S.C. § 5332). The Money Laundering Control Act of 1986 criminalized money laundering, including knowingly engaging in a monetary transaction of more than \$10,000 with property derived from criminal activity. Pub. L. No. 99-570, title I, subtitle H, § 1352(a), 100 Stat. 3207 (Oct. 27, 1986) (*codified at* 18 U.S.C. § 1957).



“map” the financial links between members of a criminal organization as well as the CTR.

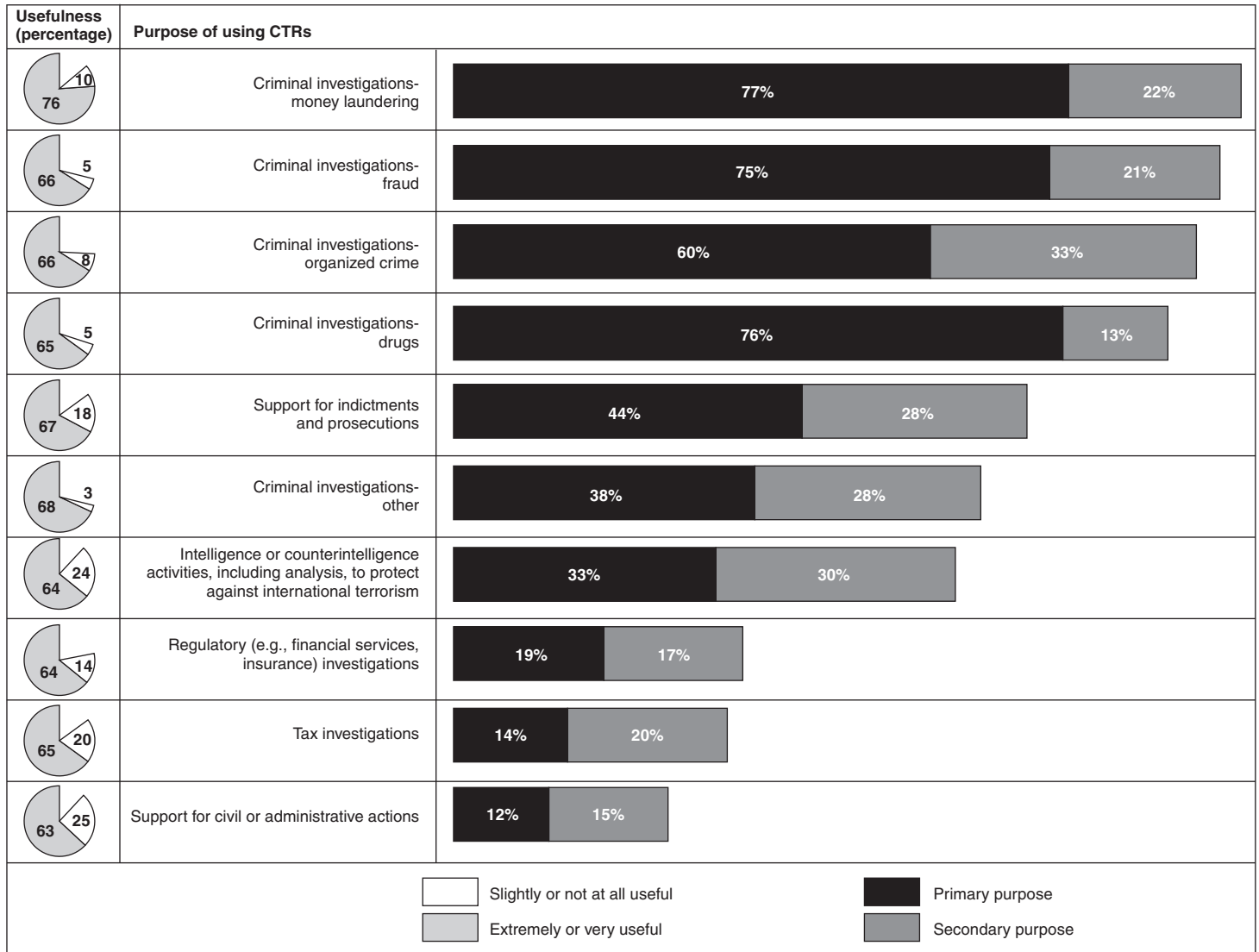
**Figure 1: Extent to Which State and Local Agencies Found That CTRs Assisted Them in Verifying Known or Obtaining Previously Unknown Information**



Source: GAO.

Regarding types of investigations involving CTR data, officials of state and local agencies we surveyed reported that they primarily use CTRs for money-laundering, fraud, and drug investigations (see fig. 2). State law enforcement officials we interviewed told us that they use CTRs for a wide variety of investigations relating to money laundering, drugs, workers compensation fraud, Medicaid fraud, mortgage fraud, and white collar crime.

**Figure 2: Purposes for Which State and Local Agencies Reported Using CTRs and How They Rated CTRs' Usefulness**



Source: GAO.

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State and local officials also indicated that the current threshold amount of \$10,000 was important to the usefulness of CTRs. Specifically, about 58 percent of the state and local officials we surveyed stated that increasing the CTR filing threshold would result in a “very great” or “great” reduction in the usefulness of the CTR filing requirement to their work. A law enforcement investigator from Illinois indicated that many of the CTRs that his agency’s criminal intelligence center reviewed were those that documented total transaction amounts between \$10,000 and \$20,000. Similarly, an investigator with a Minnesota law enforcement agency indicated that the overwhelming majority of CTRs that he found to be of use to his investigations were for transactions between \$10,000 and \$20,000.

#### Law Enforcement Agencies Use Aggregated CTR Data to Help Detect Patterns or Trends

Law enforcement agencies noted that CTR information also contributes to pattern and trend analyses. For example, at the request of DEA, FinCEN analyzed CTRs filed by institutions in California by ZIP code, providing a statistical overview of financial activity occurring within those areas that, combined with other law enforcement intelligence, allowed DEA analysts to assess threats on a statewide basis. FinCEN officials indicated that their analysts routinely analyze information from CTRs in conjunction with information from SARs or other BSA reports to develop “big picture” views of suspicious financial activity. In addition, ICE officials noted that their analysts often analyze the “conductor” and account holder information from CTRs to identify individuals moving the largest sums of money on behalf of particular account-holders over time to spot any unusual trends. Further, ICE officials commented that they proactively search CTR information to identify individuals moving large sums of money using the same Social Security number with different personal or business names (according to the officials, name variations is a common technique criminals use to hide their activities and avoid detection). According to FinCEN and IRS officials, analytical tools such as data mining—the application of database technology and techniques, such as statistical analysis and modeling, to uncover hidden patterns and subtle relationships in data—have enhanced their investigative efforts by improving their ability to identify data patterns and trends indicative of money laundering and other financial crimes.

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## CTR Requirements Can Cause Criminals to Act in Ways That Increase Chances of Detection

According to federal law enforcement officials, criminals are forced to undertake more risky and suspicious methods of money laundering than depositing cash into depository institutions because they are well aware of the \$10,000 filing threshold for CTRs and the investigative paper trail that it creates. While criminals can use a variety of means to launder their money, law enforcement officials we interviewed pointed to three primary methods that criminals use to avoid the CTR filing requirement: structuring; bulk cash smuggling, or physically moving cash across borders via courier or secreted in cargo; and trade-based money laundering, the process of disguising the proceeds of crime and moving value through the use of trade transactions.

Many federal law enforcement officials said that the CTR reporting requirement was critical in supporting the ability of depository institutions, as well as their own investigators, to identify suspicious activity based on the structuring of financial transactions to avoid CTRs. The BSA makes it illegal to structure transactions to avoid triggering otherwise applicable reporting requirements, such as the CTR, allowing federal prosecutors to file charges against individuals who structure their cash transactions.<sup>23</sup> The structuring in which criminals engage to avoid CTRs may cause a depository institution to file a SAR. FinCEN analysis of SARs filed by depository institutions from April 1, 1996, through December 31, 2006, showed that 1.5 million SARs, or 48 percent of all SARs filed by depository institutions during this period, were filed based on suspicious activity related to structuring or money laundering.<sup>24</sup>

Many law enforcement agencies routinely review SARs for evidence of structuring. For example, IRS-Criminal Investigation officials said that their agents are required to review SARs that report structuring. Officials we interviewed at several law enforcement organizations, including three associated with HIFCAs, indicated that they had formed teams to review SARs to generate leads for cases based on structuring and said that they regarded the CTR filing requirement as essential to supporting the ability of depository institutions to identify suspicious activity. Federal law enforcement officials also emphasized that the \$10,000 CTR threshold

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<sup>23</sup>31 U.S.C. § 5324.

<sup>24</sup>FinCEN, *The SAR Activity Review—By the Numbers*, Issue 8 (June 2007). In addition, according to FinCEN analysis, for fiscal years 2004, 2005, and 2006, about 25 percent of SARs filed by depository institutions on average included references to structuring.

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played a key role, by forcing criminals to make many more and smaller transactions than otherwise would be required—thus making them more vulnerable to being reported for structuring. Officials from IRS, ICE, FBI, and U.S. Attorneys Offices indicated that they believed large cash transactions have become more uncommon as consumer access to credit and electronic payment options increased in the 30 years since the threshold was established, making the \$10,000 threshold still relevant.

The existence of the CTR filing requirement also can force criminals into riskier activities such as bulk cash smuggling.<sup>25</sup> According to an ICE official, smuggling illegal proceeds in bulk cash form makes criminals more vulnerable to detection because it is easier for agents of law enforcement to interdict bulk cash shipments. Similarly, an official associated with the Chicago High Intensity Drug Trafficking Area (HIDTA) reported observing an increase in bulk cash smuggling because criminals would rather take their chances smuggling their proceeds in bulk cash to Mexico.<sup>26</sup> In response, the HIDTA has formed a highway patrol to interdict these cash shipments. Officials from ICE, FinCEN, and the Justice Department also reported that the increase in recent years of bulk cash smuggling across the U.S.-Mexican border was an indicator of CTR success in deterring criminals from depositing cash into domestic financial institutions.<sup>27</sup>

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## Measuring Usefulness of CTRs Is Difficult

Linking law enforcement's use of CTRs to specific outcome measures is difficult because agencies do not track their use of CTRs, which are typically only one of many sources of information used to support investigations. FinCEN does not routinely publish any information on law enforcement's use of CTR data as it does for other information that

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<sup>25</sup>According to the 2007 National Drug Threat Assessment, bulk cash smuggling is the principal method used by drug traffickers for moving drug money out of the United States. Bulk cash associated with the sale of illegal drug proceeds is typically smuggled across the southwestern border into Mexico.

<sup>26</sup>The Anti-Drug Abuse Act of 1988 first authorized the High Intensity Drug Trafficking Area program to reduce drug trafficking in the most critical areas of the country. Pub. L. No. 100-690, title I, § 1005, 102 Stat. 4181 (Nov. 18, 1988). Administered by the Office of National Drug Control Policy, the program has expanded to 31 areas since the original designation of five HIDTAs in 1990. *See* 21 U.S.C. § 1706.

<sup>27</sup>According to the 2007 National Money Laundering Strategy, federal law enforcement agencies believe bulk cash smuggling may be on the rise due in part to increasingly effective anti-money-laundering policies and procedures at U.S. financial institutions.

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### Agencies Have Difficulties Linking CTRs to Specific Investigation Outcomes

financial institutions provide under the BSA. Although concerns about revealing investigatory sources and methods limit dissemination of detailed information on how law enforcement agencies use CTR data, our interviews with depository institution officials suggest that they would better understand the value of meeting their requirements if the institutions were provided with summary information on CTR use.

While CTRs appear to be valuable for law enforcement purposes, linking their use to specific case outcomes, such as indictments or convictions, is problematic. First, no requirement exists to track the use of CTR data in investigations, and almost all of the officials from the federal, state, and local law enforcement agencies we contacted reported that their agencies did not track their use of CTRs or how the CTRs contributed to case outcomes.<sup>28</sup>

As a potential indicator of use, we obtained data from FinCEN and IRS on the number of CTR “views”—that is, the number of times that agencies accessed an individual CTR record. IRS tabulates views that occur when agencies access the database through WebCBRS, including its own views through its Intranet access, while FinCEN tabulates views occurring through the Gateway program.<sup>29</sup> For example, data show over 1.6 million views of CTRs by federal, state, and local agencies in 2006 (see table 2).

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<sup>28</sup>Eighty-three percent of state and local law enforcement agencies we surveyed reported that they did not have any data that would support how often CTRs have provided investigative leads or contributed to any other outcome measures.

<sup>29</sup>Data from the two agencies differed somewhat but showed a consistent pattern. The agencies were not able to explain differences in their data on the number of views.

**Table 2: CTR Views by Agencies, Fiscal Years 2004 through 2006**

Agency	Number of CTR views			Total
	2004	2005	2006	
IRS	1,466,518	1,231,345	912,405	<b>3,610,268</b>
ICE	213,608	241,692	207,325	<b>662,625</b>
FinCEN	208,609	105,266	136,090	<b>449,965</b>
DEA	111,294	108,845	108,507	<b>328,646</b>
FBI	48,364	62,487	54,290	<b>165,141</b>
Federal banking regulators <sup>a</sup>	31,408	54,039	58,006	<b>143,453</b>
All other agencies <sup>b</sup>	141,602	182,181	171,943	<b>495,726</b>
<b>Total</b>	<b>2,221,403</b>	<b>1,985,855</b>	<b>1,648,566</b>	<b>5,855,824</b>

Source: GAO analysis of IRS and Department of Homeland Security data.

Notes: Number of CTR views does not include those from bulk downloads by the FBI.

<sup>a</sup>The Federal Reserve, OCC, OTS, FDIC, and NCUA.

<sup>b</sup>Other agencies include the Bureau of Alcohol, Tobacco, Firearms, and Explosives; United States Secret Service; United States Postal Inspection Service; U.S. Attorneys Offices; and the Securities and Exchange Commission; state regulatory agencies; and state and local law enforcement agencies.

According to FinCEN data, among users who accessed the CBRS database through the Gateway program, state and local law enforcement agencies accounted for about 33 percent and 3 percent of the total CTR views, respectively. These users include state bureaus of investigation and criminal prosecuting offices, such as state offices of attorneys general and county prosecutors' offices. The number of these CTR views was concentrated among a few agencies; for example, 10 agencies from 8 states accounted for almost 64 percent of the total CTR views made by state and local law enforcement agencies, according to FinCEN's data. (For a map showing views by state, see app. II.)

However, the numbers of views do not provide any indication of CTRs' usefulness to any specific law enforcement effort or establish a link to any specific outcome of an investigation. Moreover, data on views during this period may not reflect future trends because of the changes in access to the CTR database discussed previously. For example, the numbers of CTRs viewed by state and local users may increase due to the expanding number of users with access and with more understanding of how CTRs can assist

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their efforts.<sup>30</sup> Several officials from state and local law enforcement agencies we interviewed indicated that they believed the use of CTR data through Gateway probably would increase as users better understand the value of BSA data. Also, as noted, FinCEN has recently made bulk downloads of data available to several federal agencies.

A second difficulty in measuring the impact specifically of CTR requirements involves the way that CTRs are used—primarily to support investigations that also draw upon many other sources of information. Officials from the federal investigative agencies we interviewed generally stated that outcome measures, such as indictments or convictions, cannot be linked exclusively to CTRs because they are typically one of many leads used to develop an investigation. Similarly, most—about 82 percent—of the state and local agencies we surveyed indicated that the number of investigative leads provided by CTRs was the best outcome measure of their CTR use. Further, officials from several local law enforcement agencies noted that attorneys often negotiate plea agreements with the defendant long before a case goes to trial; thus, no matter how critical the role played by a CTR in the investigation, there would be no trial in which CTRs could be used as evidence. In addition, federal, state, and local law enforcement officials reported that they were more likely to use CTRs as a basis for obtaining subpoenas to access specific bank account records than to use CTRs themselves as evidence in court. Officials from IRS, DEA, and Justice said that by the time a case moves to the trial phase, the prosecution is more likely to use bank records as evidence because those records are generally a more convincing form of evidence of a defendant's transactions. However, investigators would use the CTR to locate the defendant's bank accounts and identify the correct bank records to subpoena. Further, according to an IRS official, CTRs generally were presented in court only when bank records were not available or could not be made available in a timely manner.

FinCEN officials reported that the agency does not have outcome measures related to CTR use and analysis because many of the cases FinCEN supported were complex and might not result in tangible success for several years. Officials cited the example of “Operation Cash-Out,” where

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<sup>30</sup> According to FinCEN, there are Gateway coordinators in each state authorized to respond to requests for BSA data from local law enforcement agencies throughout the state, and these coordinators are required to conduct outreach to local police organizations within their states.



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FBI authorities eventually charged persons with attempting to provide funding to al Qaeda. During this investigation, conducted between 2000 and 2006, FinCEN identified more than 14,000 CTRs relating to the investigation.

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### FinCEN Does Not Publish Information on CTR Uses As It Does for Other BSA Data

Although FinCEN has taken some steps to promote awareness of CTRs and their value to the financial community and law enforcement agencies, it does not systematically report information about the numbers of CTRs filed or results of CTR use. Bank officials we interviewed and those responding to our survey strongly questioned whether the CTRs they were filing, especially on customers that they had determined to be at low risk for financial crimes, provided any value to law enforcement. Some officials stated that their resources would be better directed at filing SARs, which they viewed as having greater value to law enforcement. Other institution officials noted that law enforcement agencies had never contacted them.

Law enforcement officials have given presentations at banking industry conferences on how BSA data helps them in their investigations. These industry conferences typically include presentations on how law enforcement uses BSA data, but they are not necessarily CTR specific. Officials we interviewed and those responding to our survey stated that they largely did not understand how the CTRs they filed were being used by law enforcement.

In contrast to this general lack of information on CTR use, FinCEN routinely publishes information on the numbers of SARs filed and examples of how they have been used by law enforcement agencies. Since October 2000, in conjunction with law enforcement and regulatory agencies, FinCEN has been issuing the *SAR Activity Review*, which provides information about the preparation, use, and value of SARs that depository institutions, as well as other financial institutions, filed. For example, the October 2007 edition contained expanded descriptions of law enforcement cases to demonstrate the value of BSA data to the law enforcement community, including cases that were proactively initiated as a result of BSA reports, as well as trends in certain crimes identified through SARs. FinCEN also includes some information on the results of requests to financial institutions under section 314(a) of the USA PATRIOT Act. FinCEN officials told us that limited resources currently precluded the agency from routinely analyzing and publishing trend information about CTRs filed by depository institutions. However, the officials noted that the agency recently completed a study of CTR trends and patterns, and they

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were considering whether to include information on CTRs in the *SAR Activity Review*. Many officials we interviewed and those responding to our survey indicated that they were genuinely interested in how CTRs were being used. Further, our interviews with depository institution officials suggest that they would better understand the value of meeting their requirements if the institutions were provided with some information on CTR use, similar to that reported on uses of SARs.

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## Financial Institutions Incur Some Costs to Meet Requirements Regardless of the Number of CTRs They File

Our analysis of CTRs filed during calendar years 2004 to 2006 shows that a large proportion was filed by a small number of the largest depository institutions. While these institutions therefore likely incur the greatest expenditure of time and resources, all depository institutions incur some costs to meet CTR requirements, regardless of the number of CTRs they file. This is because institutions must have processes and trained staff in place to identify when and if a CTR is required, including the ability to aggregate same-day cash transactions made by or on behalf of the same person, and to file CTRs correctly. While automation has made these tasks less difficult, many institutions reported that their processes still include “manual” steps. Institutions we contacted were generally unable to quantify their costs for meeting CTR requirements, in large part because they use the same processes and staff for meeting other BSA requirements or for other purposes.

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## While Most Depository Institutions File CTRs, a Small Number of the Largest Institutions Account for the Majority

Our analysis of FinCEN’s data on the numbers of CTRs filed annually shows that, from 2004 to 2006, a relatively small number of the nation’s approximately 17,000 depository institutions accounted for the large majority of CTRs filed. For example, in 2006, fewer than 30 very large banks (those with assets of \$50 billion or more) accounted for over half (55 percent) of new CTRs during this period, while banks with assets between \$1 billion and \$50 billion accounted for another 30 percent.<sup>31</sup> The largest credit unions—those with assets of \$100 million or more—accounted for only 1 percent of new CTRs, and credit unions in total accounted for less than 2 percent. (For illustrative purposes, the remainder of this section focuses on CTRs filed in 2006. Details on the numbers of CTRs filed during















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<sup>31</sup>FinCEN distinguishes “new” CTRs from those that result from amendments (correcting a previously-filed CTR). The data in this section are based on the 37,784,310 new CTRs that FinCEN data indicate were filed during 2004 to 2006, and exclude the 1,045,554 amendments filed during the period. For further details, see appendix III.

the 3-year period, including analyses by institutions of different sizes, appear in app. III.)

In 2006, nearly two-thirds of depository institutions filed at least one CTR—89 percent of banks and 42 percent of credit unions. However, the CTRs were concentrated among the larger institutions (see fig. 3). For example, the 27 very large banks (representing less than one-half of 1 percent of all banks) filed 55 percent of the CTRs filed.

**Figure 3: CTRs Filed in 2006 by Banks and Credit Unions, by Asset Size**

		Percentage of CTRs filed		Percentage of institutions	Total number of institutions
Banks	Very large		55%		27
	Large		30		575
	Midsize		12		4,264
	Small		2		3,032
Credit unions	Large		1		1,190
	Midsize		0 <sup>b</sup>		2,137
	Small		0 <sup>b</sup>		344

Source: GAO.

Notes: The size categories are based on institutions' assets, as follows: very large banks (greater than \$50 billion); large banks (greater than \$1 billion - \$50 billion); midsize banks (greater than \$100 million - \$1 billion); small banks (\$100 million or less); large credit unions (\$100 million or more); midsize credit unions (\$10 million to less than \$100 million); and small credit unions (less than \$10 million).

<sup>a</sup>The actual percentage for very large banks was 0.2.

<sup>b</sup>The actual percentage for small credit unions was about 0.01. The actual percentage for midsize credit unions was about 0.2 percent.

Further analysis of the CTRs filed in 2006 revealed that the 100 largest depository institutions filed 7.8 million CTRs, or 65 percent of the total. One institution—the single largest filer—accounted for 1.7 million CTRs (14 percent of the total). The median number of CTRs filed by banks in each size category was as follows: very large banks, 125,202; large, 1,889; midsize, 154; and small, 17.

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**Regardless of the Number of CTRs Filed, Institutions Incur Costs to Establish and Maintain a CTR Filing Process**

Some institutions may rarely file CTRs—for example, our analysis showed that over 5,900 institutions did not file any CTRs in 2006—but nevertheless incur costs to establish a filing process and train their staff to meet CTR requirements. All of our survey and interview respondents reported that they had established processes to file CTRs and thus incurred costs associated with these processes.<sup>32</sup> While the following briefly summarizes and depicts a typical process, we found much variation both within institutions—for example, procedures for filing CTRs resulting from aggregated transactions differed from those applicable to a single transaction—and among institutions.

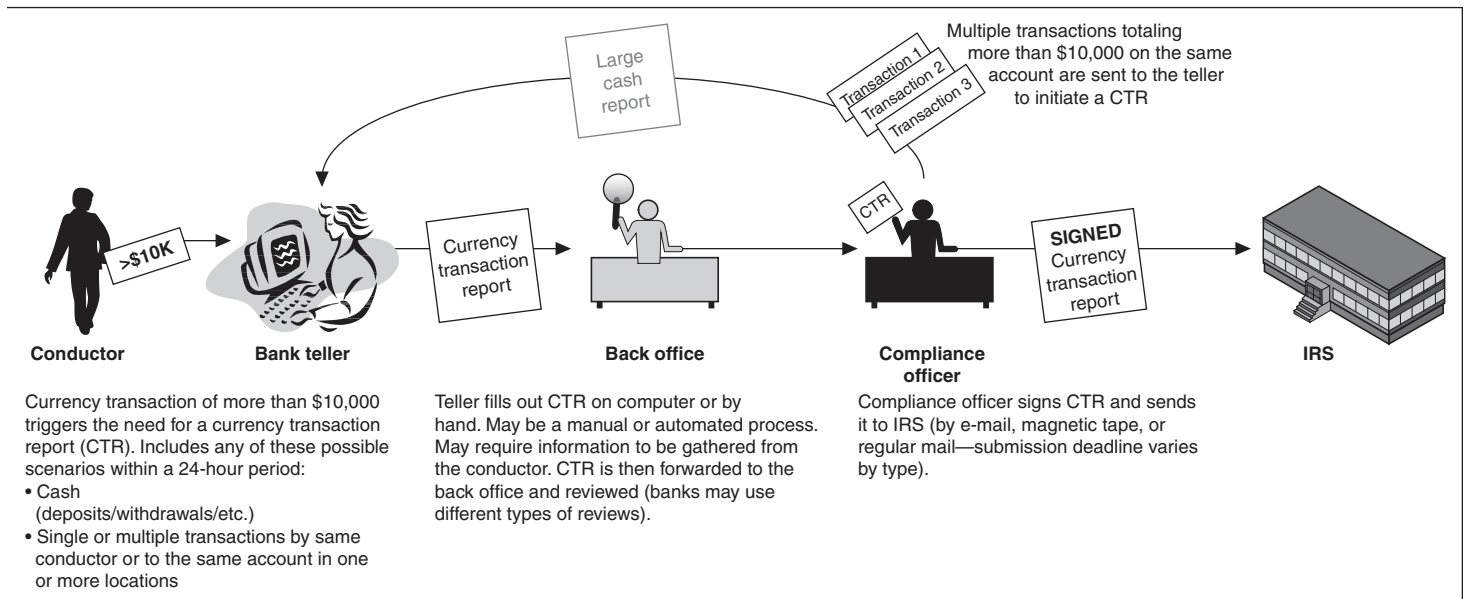
At most institutions, the CTR filing process typically involves a number of steps and staff members (see fig. 4). The staff may include tellers, branch supervisors, and compliance officers.<sup>33</sup> A teller typically inputs the information needed to fill out the CTR form, during or immediately following a cash transaction greater than \$10,000. The teller completes the form, either by hand or through an automated system, and passes it to a branch-level supervisor for review. Once this review is complete, the CTR is sent either electronically or in hard copy to the institution's compliance office for an additional review and compliance check. Once the compliance check is complete, the CTR is signed and sent either electronically to FinCEN or by mail to the IRS.

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<sup>32</sup>We surveyed institutions that filed at least 120 CTRs in 2006. To obtain the viewpoints of smaller institutions and those that filed fewer than 120 CTRs, we relied on structured interviews.

<sup>33</sup>The Bank Secrecy Act requires depository institutions to have a designated BSA compliance officer to help assure that the institution adheres to anti-money-laundering and other requirements. 31 U.S.C. § 5318(h)(1)(B).

**Figure 4: General Process for Filing CTRs**



Sources: GAO (analysis); Art Explosion (images).

To identify cases in which a CTR may be needed if certain individual transactions are aggregated and for other purposes, depository institutions generally keep a daily report of transactions across their branches and service centers and aggregate the transactions by customers' tax identification numbers.<sup>34</sup> Typically, compliance office staff review the aggregation report to see if any of the aggregated transactions made by or on behalf of the same person meet the CTR filing threshold. Some depository institution officials we interviewed said that reviewing this aggregation report could take from 1 to 2 hours a day, while others noted that it was a time-consuming process because it was a manual or partly manual process. Further, if information is missing, additional time is required to obtain it. Our analysis of CTR data shows that in 2006, 65 percent of all CTRs filed resulted from aggregated, rather than single, transactions.

<sup>34</sup>A federal tax identification number, also known as an employer identification number, issued by the IRS, is used to identify a business entity. Generally, businesses need a tax identification number.

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Many of our survey and interview respondents said that, in general, their CTR process was not complex: Fifty percent said the process was very or somewhat simple for their institution to complete. However, 21 percent of the survey respondents said their process was very or somewhat complex. Officials we interviewed and surveyed also noted that, in general, a number of variations to the basic process outlined in figure 4 exist, depending on circumstances. For example, additional time and effort is needed to fill in any required information that a teller failed to obtain at the time of a transaction. Similarly, if an institution filed a CTR with an error, subsequently filing an amended CTR may involve collecting additional information about the transaction; and “backfiling” (cases in which an institution files a CTR after discovering one needed to be filed) may require time-consuming review of an account’s transactions over a period of time.

In addition, we found that while most depository institutions generally follow the same process for filing CTRs, significant variations can exist among them, which may be attributed to the quantity of CTRs filed, the number of staff involved, the degree of automation, or institutional preferences in reviewing and processing CTRs.

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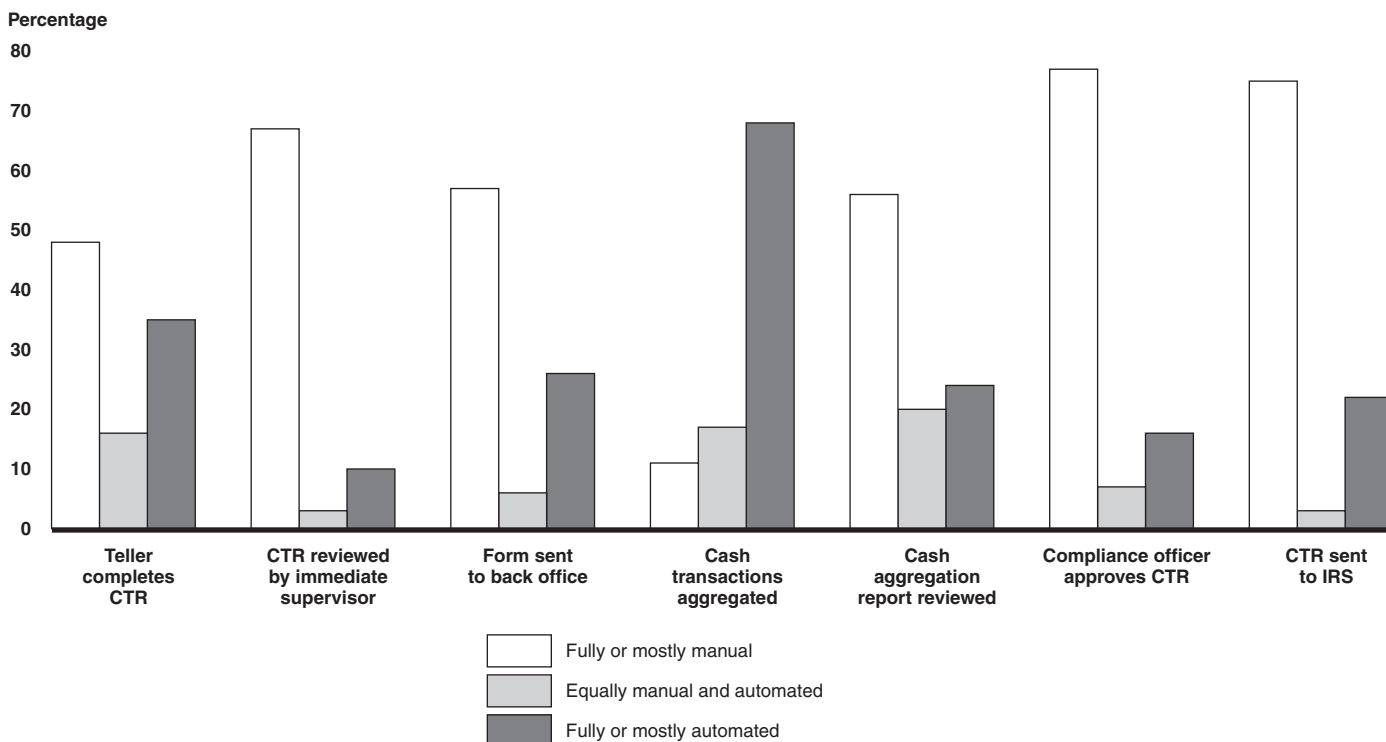
### Technology Has Expedited Some Steps in the Filing Process, but Institutions Have Not Automated All Steps

Technology has helped some depository institutions expedite and streamline many or some parts of the CTR process. Overall, 78 percent of institutions responding to our survey reported that at least one part of their CTR filing process was mostly or fully automated. Many of the institutions we spoke with have software systems that prompt the teller when a CTR is necessary for a transaction, and some institutions have systems that allow tellers to electronically access the CTR form at their workstation and enter the necessary information. Additionally, some depository institutions reported that they had software systems that automatically fill in some parts of the form. Also, some banks have invested in software that processes CTRs for final reviews by their compliance office staff.

However, the extent of automation varied widely among specific steps in the process (see fig. 5), and no survey respondents reported a completely automated CTR process. For instance, 35 percent of survey respondents said they had a mostly or fully automated process for their tellers to fill out CTR forms, while 48 percent reported this step was largely manual and 16 percent used a mix of manual and automated steps. The step that was most likely to be automated was the aggregating of daily cash transactions: 68 percent of survey respondents reported that their systems automatically generate this aggregation report. The step least likely to be automated was

the supervisory review of CTRs; about 10 percent of survey respondents reported that the review processes at the branch level had been automated. While we did not obtain data showing how the extent of automation compares with the volume of CTRs filed, our structured interviews with officials from depository institutions suggest that institutions filing the most CTRs (generally the larger institutions) were more likely to have highly automated processes than smaller institutions filing fewer CTRs. Because of the cost, many smaller banks that do not file as many CTRs may choose not to invest in systems that could provide a greater degree of automation.

**Figure 5: Extent to Which Steps in the CTR Process Were Automated at Surveyed Institutions**



Source: GAO.

The extent of automation could influence the time needed to process CTRs. Overall, survey respondents reported a median time of 25.2 minutes to complete a CTR in 2007 (see fig. 6). In 1998, FinCEN estimated that it took about 24 minutes to complete a CTR.<sup>35</sup>

**Figure 6: Median Time, in Minutes, to Accomplish Each CTR Filing Step**

Steps to completing a CTR	Median time spent per CTR (in minutes)
A) Teller fills out the CTR	6.0
B) Supervisory review	4.5
C) Form submitted to an office that provides centralized support for processing CTRs	4.0
D) CTR reviewed and signed by approving official	4.5
E) CTR sent to IRS	3.5
F) Other steps your institution requires	4.5
<b>Total median time: 25.2</b>	

Source: GAO.

Note: The median values for each of the steps have been rounded to the nearest 0.5 minute. The median values for each step do not necessarily sum to the total median time. The 95 percent confidence interval for “teller fills out CTR” is from 4.9 to 8 minutes, the interval for “CTR sent to IRS” is from 2.6 to 4.1 minutes, and the interval for the median time total is from 24.4 to 28.8 minutes.

Although FinCEN has taken steps to encourage institutions to file CTRs electronically, 76 percent of our survey respondents said that they filed CTRs by mail, while 14 percent reported that they filed electronically, 6 percent filed by magnetic media, and 4 percent a combination of these methods.<sup>36</sup> However, institutions that do not file CTRs electronically may account for a small proportion of all CTRs. According to FinCEN data, 47 percent of all CTRs filed by financial institutions in 2006 were filed electronically, while 22 percent were filed by mail, and 31 percent were filed by magnetic media. Further, the use of electronic filing appears to be growing; in fiscal year 2003, only about 5 percent of CTRs were filed electronically. Some depository institution officials said the ability to e-file has made filing CTRs much easier at their institution. Others stated that they choose not to file electronically because the volume of CTRs they filed did not justify the required time and effort involved. According to FinCEN,

<sup>35</sup>FinCEN estimated the time needed for completing the CTR at 19 minutes and the associated record keeping at 5 minutes per CTR (63 Fed. Reg. 50147, 50155 (Sept. 21, 1998)).

<sup>36</sup>Magnetic media include discs or tapes containing the data on one or more CTRs.



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electronic filing is best suited for institutions that file a larger volume of CTRs; however, the overall benefits of e-filing to lower-volume filers—for example, the e-filing system provides the institution submitting the CTR with an electronic confirmation of its receipt—in many instances may outweigh development costs.

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### Depository Institutions Could Not Quantify Costs Specific to CTR Requirements

Although they provided some anecdotal estimates, officials of depository institutions we interviewed had difficulty separating costs for meeting CTR requirements from other BSA costs, such as preparing Suspicious Activity Reports.<sup>37</sup> In particular, we found that at some banks, some staff and automated systems were used to meet CTR and other BSA filing requirements. While we asked institutions we spoke with to provide estimates of costs based on categories such as personnel, training, and technology, not all institutions were able to do so because they do not typically account for CTR costs in this way. However, officials from institutions we interviewed did describe general types of costs and provided some estimates.

In general, personnel costs associated with CTRs may include the cost of training staff on meeting CTR requirements, as well as the cost of labor involved in filing CTRs. They may include salary expenses for tellers, branch managers, and BSA compliance staff. Most institutions said they provide annual training on when and how to file CTRs, and that staff members, including tellers, spent an average of about 1 hour each in CTR training. At smaller institutions, fewer staff may receive training; for example, a compliance officer at one smaller bank told us that 26 staff members received four hours of BSA training annually, a portion of which is dedicated to CTRs. In contrast, the BSA officer at a very large bank said that 1 hour of CTR training is provided annually to 160,000 staff; officials from a very large bank said it registers about 40,000 hours in CTR training each year among its staff. Many depository institutions indicated that training on CTR requirements was part of a larger BSA training course, while a few said they offered training modules focused on CTRs. For example, at a cost of \$15,000, one bank has purchased access to a Web-

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<sup>37</sup>Others who have surveyed depository institutions in an effort to quantify costs report that banks they surveyed had difficulty estimating BSA costs. Two studies, one conducted by KPMG, *Global Anti-Money Laundering Survey 2007: How Banks Are Facing Up to the Challenge*, and a second, *Report on FinCEN's Survey on Bank Secrecy Act Costs and Exemption Procedures*, by Deloitte and Touche (October 2002), found that depository institutions generally had difficulty estimating their costs of BSA compliance.

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based training program that offers courses on CTRs, as well as other areas of BSA. Furthermore, officials at one very large institution noted that, in particular, they had to conduct training more often for tellers because of high rates of turnover in teller positions.

While all institutions incur some level of costs for training their staff, our interviews suggest that typically the higher the number of CTRs an institution filed, the higher the number of associated personnel—and therefore presumably training costs. Similarly, the labor costs associated with actually preparing CTRs would be expected to be larger among the institutions that file the most CTRs—though, as noted, such costs are also affected by the type of process used, including the degree of automation. The highest-volume CTR filers reported having staff solely dedicated to filing CTRs and exemptions; for example, one very large bank employed more than 190 staff at CTR operations centers, and representatives of another very large bank reported 60 staff members who worked exclusively on CTRs. Conversely, representatives of one midsized bank said that they had one and a half full-time equivalent positions in their compliance office dedicated to CTRs.

Reflecting the range of numbers of staff that may be involved, officials provided a wide variance of estimated personnel costs. For example, the very large bank with more than 190 dedicated staff (which filed over 1 million CTRs in 2006) estimated the cost to be “several” million dollars. Other large filers also reported high costs for staff salaries that ranged from just less than \$1 million to over \$5 million. For example, one very large bank that filed almost 1 million CTRs in 2006 estimated the cost at \$5.4 million—\$3.6 million for the approximately 25,000 tellers involved and \$1.8 million in personnel costs for staff dedicated to CTRs. In comparison, officials from one large bank that filed just fewer than 5,000 CTRs in 2006 estimated that personnel costs for tellers and compliance office staff were slightly more than \$76,000 for the year. Similarly, the midsize bank that reported one and a half full-time equivalent positions dedicated to CTRs, and filed approximately 2,300 CTRs in 2006, estimated personnel costs of about \$31,000 for the compliance office staff but was unable to provide an estimate for the costs associated with the tellers’ time. Officials from smaller institutions we spoke with generally estimated lower costs and indicated that CTR filing responsibilities at their institutions were handled by staff that had other responsibilities, as well; one estimated that staff time for filing 65 CTRs in 2006 cost a little less than \$2,000.

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As noted above, institutions have automated processes for meeting CTR requirements to differing extents, and officials cited technology as a significant cost. For example, one large bank was considering adding a CTR module to its current software at a cost of between \$60,000 and \$70,000; another large bank reported recently spending about \$30,000 to purchase a new software component. However, because many of the institutions we spoke with also used these systems for other processes, they were not able to break out the costs exclusively for CTRs. For example, some officials told us their systems cost in the thousands of dollars but that they used the systems for monitoring cash transactions for suspicious activities, as well as for preparing CTRs. As a result, officials we interviewed said that, even if CTR requirements were eliminated, their institutions would still incur both personnel and systems costs because of other BSA compliance activities. An official of a very large bank said that if the CTR requirement were eliminated, the bank would be able to eliminate or reassign 14 staff to other activities but still would need to prepare many of the same reports, such as aggregation reports, because they are used for other purposes, such as identifying suspicious activity. An official of a large bank told us if there were no CTR filing requirement, the bank would realize reductions in some technology costs but would retain staff involved for their expertise and skills in other parts of its BSA program.

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## Uncertainty about Required Documentation and Some Regulatory Requirements May Unnecessarily Discourage Use of Exemptions

FinCEN data show that depository institutions filed about 31,500 Phase I and 39,300 initial Phase II exemptions during 2004-2006.<sup>38</sup> However, according to our survey results, many financial institutions with customers considered eligible for exemptions do not actually exempt them but instead continue to file CTRs on the customers' transactions—despite the institutions' recognition that making use of the exemption provisions would enable them to file fewer CTRs. (Complete survey results can be viewed at <http://www.gao.gov/cgi-bin/getrpt?GAO-08-385SP>.) Among the reasons cited by institutions was uncertainty about the documentation required to demonstrate that some customers are in fact eligible, accompanied by some concern that examiners from the federal banking regulators would deem the documentation insufficient and cite them for BSA noncompliance. Our discussions with examiners revealed variations in the types of documentation they find acceptable, although our review of data from the banking regulators showed relatively few violations

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<sup>38</sup>An initial exemption is the first one filed on behalf of a specific customer. These totals do not include subsequent renewals for these or previously exempted customers.

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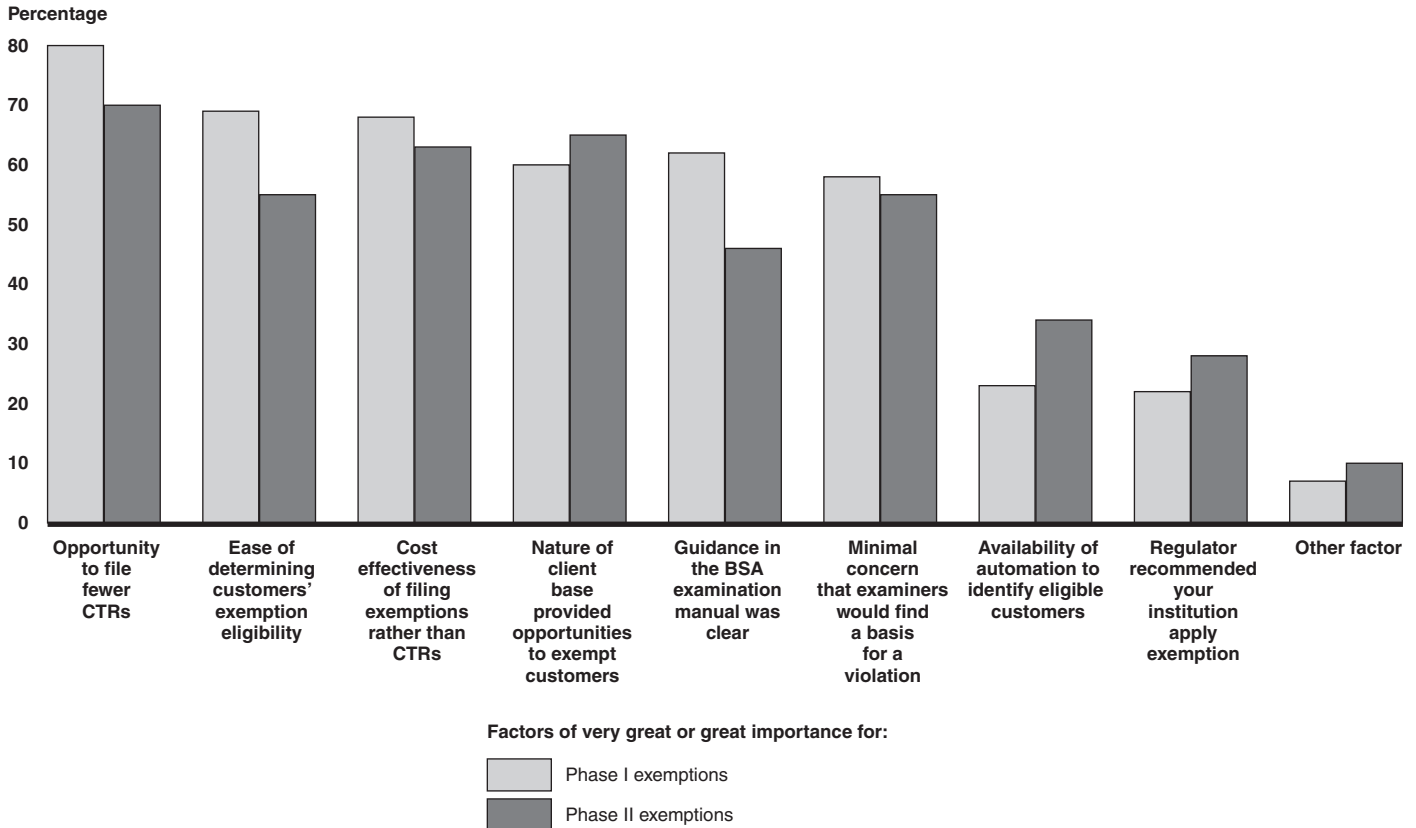
concerning exemptions compared with the number of BSA examinations conducted. Other factors discouraging use of exemptions were the cost and effort involved in meeting FinCEN's regulatory requirements to (1) file an exemption form, and annually review and update the information, particularly for certain customers that are specifically exempted by statute, as appropriate; and (2) biennially file a form to document the continued eligibility of customers that have been exempted under the Phase II regulations—which as a practical matter duplicates the required annual review process for those customers. Factors the institutions indicated might encourage use of exemptions included (1) shortening the waiting period—currently a full year under FinCEN's regulations—before exempting certain customers with a relatively large volume of cash transactions, and (2) making Web-based material available to help train and guide depository institutions' staff in making exemption determinations. Because the transactions of exempt customers are likely to be of little or no value to law enforcement, actions to encourage depository institutions to make greater use of exemptions could avoid the burden of filing some CTRs without harming law enforcement efforts.

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### While Recognizing the Benefits of Exemptions, Depository Institutions Do Not Exempt All Eligible Customers

Exemptions allow institutions to avoid filing CTRs for the exempt customers, but the institutions are not required to exempt eligible customers. According to the results of our survey, institutions that made use of exemptions primarily did so because it allowed them to file fewer CTRs, was cost-effective, and the determinations involved were fairly easy. As shown in figure 7 below, the reasons generally were consistent for both Phase I and Phase II exemptions.

**Figure 7: Factors That Surveyed Institutions Reported as of Very Great or Great Importance to Their Decision to Exempt Phase I and Phase II Customers**



Source: GAO.

Note: For the category "other factors," the 95 percent confidence intervals for the very great/great importance and some/little or no importance estimates are within +/- 12 percentage points.

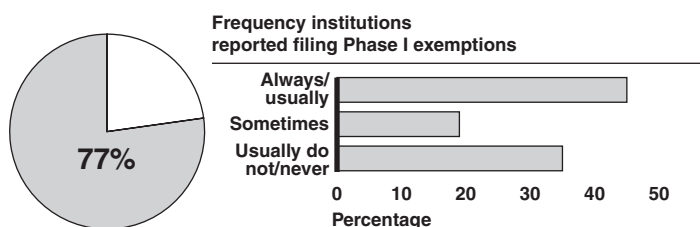
The primary reason cited for using the exemption process was that it allowed institutions to file fewer CTRs. While it would be difficult for an institution to track the number of CTRs it "saved" or avoided by exempting a customer, some had; for example, a smaller institution reported that it recently began using exemptions more extensively, and by exempting five more Phase II eligible customers, the institution anticipated filing almost 200 fewer CTRs. (However, the effect of exempting a single customer on the number of CTRs filed cannot be generalized; for example, an exemption might avoid 8 CTRs or 100, depending on the volume of cash transactions in which the customer typically engaged.) Institutions also frequently cited

the cost-effectiveness of using exemptions; while they had difficulty estimating the cost of establishing exemptions, just as they did for the costs of filing CTRs, some institutions regarded exempting customers as less costly than filing CTRs. Officials at other institutions we interviewed cited recent advances in commercial software systems that made exemptions easier. For example, software can identify the customers potentially eligible for the Phase II exemption due to the volume of high cash transactions they engaged in during the year. In addition, at least one software vendor makes available for purchase a database of companies listed on stock exchanges that are eligible for the Phase I exemption.

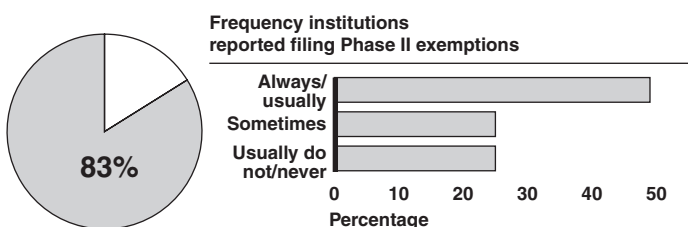
Despite the cost-effectiveness of using exemptions, institutions responding to our survey did not exempt all of their eligible customers. For example, while 77 percent of the institutions reported having customers eligible for the Phase I exemption, only 45 percent reported that they always or usually filed Phase I exemptions. Similarly, 83 percent of the institutions reported having customers eligible for the Phase II exemption, but only 49 percent reported that they always or usually filed Phase II exemptions (see fig. 8).

**Figure 8: Percentage of Depository Institutions with Customers Eligible for Phase I and II Exemptions and Extent to Which They Filed Exemptions in 2006**

**Institutions with customers eligible for the Phase I exemption**



**Institutions with customers eligible for the Phase II exemption**



Source: GAO.

Note: The shaded portion of each circle equals the percentage of institutions reporting that they had customers eligible for the exemptions.

Some institutions that file large numbers of CTRs—and, therefore, might realize the greatest savings by avoiding CTRs—do not file many exemptions. Some of the reasons for this are discussed in the following sections. (Further details on the results of our survey, including the percentages of institutions that cited specific factors affecting their decisions to exempt or not exempt customers, are presented in app. IV and in [GAO-08-385SP](#).)

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**Uncertainty about Documentation Needed to Demonstrate Eligibility, Accompanied by Concerns of BSA Noncompliance, Deterred Some Exemptions**

The leading reason identified by survey respondents that choose not to file Phase II exemptions was difficulty in determining the percentage of a customer's gross revenue derived from lines of business not eligible for exemption. This difficulty—along with other concerns, including that federal banking regulators would deem documentation insufficient—contributed to a reluctance to exempt customers that the institutions considered potentially eligible.

The responses of officials of institutions we interviewed were consistent with our survey results. Officials explained that a fair amount of research was required on their part to determine eligibility under the Phase II regulations—for example, examining a business's tax returns or financial statements—and that it was not always clear if the customer qualified for the exemption because it was difficult to determine which part of a business customer's revenue was derived from which activity. The depository institutions that chose to use the Phase II exemption used various methods to document the portion of revenues derived from ineligible activities. Officials of several institutions we interviewed said they arrived at this determination after conducting what they said was exhaustive research, which included analyzing financial statements, searching the Internet, and reviewing available documents if the institution had a lending relationship with the customer, or asking the customer for documents. Officials of other institutions used less labor-intensive methods; for example, an official of one midsize institution indicated that the account officer simply asked customers about the source of their gross revenue and made a notation in the customer's file. Several institutions reported using a letter from the customer to self-certify that no more than 50 percent of their gross revenue came from activities or lines of business ineligible for exemption.

Officials from the federal banking regulators generally indicated that they did not have a standardized expectation for what documentation (such as financial statements or tax documents) an institution might use to demonstrate the portion of revenues derived from ineligible activities. They further noted that examiners have some flexibility in determining what level of documentation is required, based on guidance in the

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*BSA/AML Examination Manual*.<sup>39</sup> The same manual is used by each of the five federal banking regulators and is available to depository institutions to help guide their BSA compliance activities. However, our interviews with officials and examiners indicated differences among them regarding the type of documentation acceptable. For example, federal regulators and examiners we interviewed had different views about the use of a self-certifying letter and whether depository institutions ought to provide other documentation. While Federal Reserve and FDIC officials said the acceptance of a self-certifying letter would depend on the circumstances, they generally noted that examiners had flexibility in deciding what level of documentation would be acceptable. Officials from OTS and OCC, on the other hand, indicated that a self-certification letter alone would be inadequate to show eligibility. Because, in this instance, the federal banking regulators examine institutions for compliance with FinCEN's regulations, additional guidance from FinCEN could help reduce the difficulties that depository institutions face in making this determination and clarifying, for both the institutions and the regulators, the types of documentation acceptable for demonstrating eligibility.

Officials and examiners we interviewed from all of the federal banking regulators indicated that they have found few problems with exemptions, and our review of available violation data for 2005 and 2006 indicated that examiners cited relatively few violations for exemptions. We asked the regulators to disaggregate their data on violations to distinguish those related specifically to exemptions; only the Federal Reserve, FDIC, and OCC were able to provide this level of detail. These three agencies are responsible for examining about 7,800 depository institutions, including the largest banks that likely account for the greatest numbers of CTRs. As shown in table 3, the three agencies collectively found violations associated with exemptions in less than 5 percent of the BSA exams they conducted—a combined total of 227 violations for exemptions in 2005 and 113 violations for exemptions in 2006.

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<sup>39</sup>The manual requires that the examiner should “determine whether the bank maintains documentation to support that the ‘non-listed’ businesses it has designated as exempt from CTR reporting do not receive more than 50 percent of gross revenue from ineligible business activities.”



**Table 3: Exemption Violations Cited in BSA Examinations by FDIC, Federal Reserve, and OCC, 2005 and 2006**

	Agency	Number of BSA examinations conducted	Number of exemption violations issued	Percentage of exemption violations per examination
2005	FDIC	3,029	178	5.9
	Federal Reserve	678	10	1.5
	OCC	1,510	39	2.6
	<b>Total</b>	<b>5,217</b>	<b>227</b>	<b>4.4</b>
2006	FDIC	2,825	80	2.8
	Federal Reserve	815	6	.7
	OCC	1,547	27	1.7
	<b>Total</b>	<b>5,187</b>	<b>113</b>	<b>2.2</b>

Source: GAO analysis of Federal Reserve, FDIC, and OCC data.

Similarly, we asked FinCEN for data on BSA enforcement actions it has taken against depository institutions related to exemptions. (While FinCEN generally coordinates with the federal banking regulators, it may independently take enforcement actions, including imposing penalties and fines, for BSA violations.<sup>40</sup>) FinCEN data show that, over the 10-year period 1997 to 2006, it took 110 BSA enforcement actions related to exemptions, 4 of which included fines. (More detailed information on FinCEN's enforcement actions is presented in app. IV.)

The fairly low incidence of violations associated with exemptions may reflect depository institutions' decisions to simply not grant exemptions, thus avoiding potential violations. (Some examiners noted that they sometimes encouraged depository institutions to use the exemption process, for example, if the institution was filing many CTRs on customers that were potentially eligible for the exemption.) However, our survey and interviews demonstrate that a lack of clear guidance from FinCEN for documenting eligibility, and the differing interpretations among the federal banking regulators, have the effect of dissuading depository institutions

<sup>40</sup>31 U.S.C. § 5321; see GAO, *Bank Secrecy Act: Opportunities Exist for FinCEN and the Banking Regulators to Further Strengthen the Framework for Consistent BSA Oversight*, GAO-06-386 (Washington, D.C.: Apr. 28, 2006).

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from more frequently using the Phase II exemption. A minority of our survey respondents indicated that they “always” exempt eligible customers—33 percent reported doing so for Phase I-eligible customers and 26 percent for Phase II-eligible customers. Some depository institution officials noted that any compliance deficiency found by BSA examiners was a cause for concern. (About 10 percent of survey respondents reported that they had received a CTR violation or had been fined since 2000.) An official from the very large bank that filed more than 150,000 CTRs in 2006 said it was the bank’s official policy not to exempt any new customers that were eligible for the Phase II exemption because, among other things, the bank faced reputation risk if it was cited for a BSA violation, and use of the exemption process opened the bank to examiner criticism and fines. An official from a large community bank said that the bank did not file Phase II exemptions because of concerns about regulatory risk. Officials from several depository institutions we interviewed specifically said it was not clear to them what level of support was needed, and some indicated that they would rather file CTRs than take the risk of not satisfying an examiner.

In a 2002 report on the exemption process mandated by section 366 of the USA PATRIOT Act, FinCEN concluded that it should work with the federal banking regulators, as well as banks, to reduce “fear of adverse regulatory consequences from making incorrect exemption determinations.”<sup>41</sup> Exemptions are addressed in the *BSA/AML Examination Manual*, which was first published in 2005 and, as noted, is used by the banking regulators and is available to depository institutions. However, 68 percent of our survey respondents said that difficulty in determining whether companies derive more than 50 percent of their revenues from ineligible business activities was a “very great” or “great” factor in their decision not to exempt Phase II-eligible customers. Guidance that could help institutions make greater use of this exemption would help avoid unnecessary CTRs that are of little or no use to law enforcement.

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### Biennial Renewals, Which Duplicate Annual Reviews, Discourage Use of Some Phase II Exemptions

FinCEN’s regulations require that depository institutions (1) annually—at least once a year—review and verify the information supporting any exemptions that they have filed for either Phase I or Phase II customers, and (2) biennially file—on March 15 of the second calendar year following the initial exemption—a renewal form to continue the exemption of Phase

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<sup>41</sup>Department of the Treasury, *Use of Currency Transaction Reports* (Washington, D.C., October 2002).

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II customers. The purpose of the annual review is to ensure that the customers continue to qualify for exemption; according to FinCEN, the biennial renewal provides formal notification to FinCEN that the institution has monitored the customers' transactions as required. About 49 percent of our survey respondents indicated that the time-consuming nature of the biennial renewal was of great or very great importance in contributing to their decision not to exempt customers eligible for Phase II exemptions.<sup>42</sup> An official from the very large bank that filed more than 150,000 CTRs in 2006 said it was the bank's official policy not to exempt any new customers that were eligible for the Phase II exemption because of the costs associated with the biennial renewals and the need to keep track of which exemptions had to be renewed in each year. Officials from depository institutions we interviewed, particularly those that did not exempt customers, also said that the need to conduct this review discouraged their use of the exemption.

Officials of some depository institutions questioned the value added by biennial renewals, observing that they were already conducting the annual review as well as monitoring all of their customers for suspicious activities, which is part of a strong anti-money-laundering program pursuant to section 352 of the USA PATRIOT Act. Even officials of institutions that nevertheless filed and maintained exemptions considered the requirement to be redundant. For example, officials at one of the very large banks—which had more than 1,900 Phase II exemptions on file—said they filed the “biennial” renewal form every year for every customer, because the bank went through the same steps for the biennial renewals as it did for each required annual review and did not want to risk failing to file a biennial renewal form in the correct year. Further, our analysis of FinCEN data revealed that some institutions file biennial renewal forms on Phase I customers, although they are required only for Phase II customers (in 2006, depository institutions filed 1,382 biennial renewals on Phase I customers).

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<sup>42</sup>The 95 percent confidence interval for this estimate is within +/-11 percentage points.

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FinCEN established the biennial renewal requirement based on its interpretation of the Money Laundering Suppression Act. Specifically, the act requires the Secretary of the Treasury to prescribe regulations requiring that depository institutions review, at least annually, the qualified business customers that they have exempted and to “resubmit information about such customers” to the Secretary.<sup>43</sup> According to FinCEN, the implementing regulations provided for the information to be resubmitted biennially, rather than annually, because the statute does not explicitly set a time frame for the resubmission.<sup>44</sup> Further, FinCEN officials believe that the Secretary has general authority to prescribe appropriate exemptions to requirements under the BSA, including revising the regulations to eliminate the biennial renewals.<sup>45</sup>

FinCEN officials said that the biennial renewal form provides them with evidence that the exempt business remains eligible for the exemption and that the institution has been monitoring the business for suspicious activity. In addition, they reported that FinCEN routinely analyzes biennial renewal forms (along with other information) filed on and by specific depository institutions that are the subjects of compliance or enforcement actions by the federal banking regulators to determine if the institutions properly granted exemptions to eligible customers. However, these activities essentially duplicate those of the bank examiners who, as part of the examination process, ascertain whether institutions properly grant exemptions and monitor their customers for suspicious activity.<sup>46</sup> Examiners from a few of the banking regulators indicated that the biennial renewal requirement results in depository institutions collecting the same kinds of information that they collect as part of the annual review of exemptions. Further, all biennial renewals must be filed on March 15, regardless of when the exemption was filed. Officials from the Federal Reserve noted that meeting both requirements can impose significant

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<sup>43</sup>31 U.S.C. § 5313(e)(5).

<sup>44</sup>63 Fed. Reg. 50147, 50153 (Sept. 21, 1998) (FinCEN interpreted the statute as not explicitly setting a time for the filing of updated information after an annual review when it issued the final rule requiring banks to renew the status of Phase II exemptions every 2 years).

<sup>45</sup>31 U.S.C. § 5318(a)(6).

<sup>46</sup>The examination procedures as outlined in the *BSA/AML Examination Manual* require that examiners assess whether ongoing and reasonable due diligence is performed, including annual reviews, to determine whether a customer is eligible for the exemption designation.

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compliance costs on the institutions, yet the duplication provides no offsetting benefit for supervisory efforts. Eliminating the requirement for biennial renewals could encourage more institutions to make use of Phase II exemptions and reduce the burden associated with filing unnecessary CTRs.

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### Current Regulations Require Institutions to File Exemptions for Customers That Are Statutorily Exempt

Recognizing that the cash transactions of customers that are depository institutions or governmental entities would likely be of little or no use to law enforcement efforts, the Money Laundering Suppression Act specifically directed that the Secretary of the Treasury exempt depository institutions, as appropriate, from filing CTRs on the transactions of these customers. FinCEN did so, but its regulations require depository institutions to file exemption forms if they choose to exempt these types of customers—and to annually review and verify the information supporting the exemption. The statute does not mandate annual reviews for these customers.

In essence, the regulations treat these entities like all other customers eligible for Phase I exemptions, including listed companies and majority-owned subsidiaries. Accordingly, if depository institutions choose to exempt these customers, they must perform the same steps and incur costs for annual reviews as they do for other customers they exempt. But depository institutions and governmental entities, in contrast to other Phase I entities such as publicly traded companies, are unlikely to change those characteristics that initially qualified them for exemption.<sup>47</sup> For example, a governmental entity is unlikely to become a private company. In any case, a change in the status of a governmental entity or bank would most likely require that the exempted bank account be closed and a new one be opened—triggering a new consideration for exemption.

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<sup>47</sup>According to FinCEN, if such a Phase I exempted entity was “delisted,” the relevant bank could immediately exempt the customer from CTR reporting requirements pursuant to a Phase II exemption providing that the necessary requirements were met.

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Few institutions we interviewed cited difficulty in determining eligibility for their customers that are other depository institutions or government entities, and many said that, in these cases, they exempt all eligible customers. However, they would have incurred some cost to file the form and to annually review the supporting information. In response to our survey, officials of depository institutions reported that their staff took a median time of about 34 minutes to exempt a Phase I customer, and about 14 minutes for the annual review process.<sup>48</sup> Further, some depository institutions do not exempt these customers and continue to incur the cost of filing CTRs. For example, our analysis of FinCEN data shows that, in 2006, almost 87,000 CTRs were filed on over 2,900 depository institutions, and about 45,000 CTRs were filed on some 5,500 government entities.<sup>49</sup> These CTRs are unnecessary in that the cash transactions of these entities are not likely to have a high degree of usefulness for law enforcement.

According to FinCEN officials, the information provided on the exemption forms for these entities is not required for analytical purposes per se but rather serves as the basis for recording which financial institutions had chosen to exempt specific depository institutions and governmental agencies. However, depository institutions are separately required to keep records of customers' transactions for BSA purposes.<sup>50</sup> Federal Reserve officials specifically noted that they believed that the automatic exemption of domestic depository institutions from the CTR filing requirement should be considered and that eliminating the need to file an exemption and keep it current for these entities would make the CTR process more efficient. Continuing to require depository institutions to file forms on these entities—and to incur the cost and effort of annually reviewing the information supporting the exemption—discourages use of the exemption, resulting in CTRs that are likely to be of little or no value to law enforcement.

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<sup>48</sup>The 95 percent confidence interval for the total time to exempt a customer is 31.2 to 40.5 minutes and for the annual review process is from 11.7 to 17.3 minutes.

<sup>49</sup>We identified government entities by searching the name fields on the CTRs; accordingly, we identified only entities that could be explicitly identified based on their names. The numbers we report represent a minimum number of entities for whom CTRs might have been filed.

<sup>50</sup>31 C.F.R. §§ 103.33 and 103.34.

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**Length of Time Allowed  
Before Frequent Customers  
Can Be Exempted May  
Result in Unnecessary CTRs**

FinCEN's Phase II exemption regulations specify that, in order to be eligible for exemption, among other things customers must have held an account for at least 1 year and must have "frequently" engaged in currency transactions in excess of \$10,000. In a November 2002 guidance memorandum, FinCEN defined "frequently" as at least eight large currency transactions in a 1-year period (with an exception for seasonal customers).<sup>51</sup> Officials of several banks we surveyed said that their use of exemptions for Phase II customers would increase if they were permitted to exempt businesses with frequent cash transactions in less than 12 months.

As explained by an official of one institution, a year seems to be an unnecessarily long time if the business is by nature cash-intensive and not suspicious, and the institution regularly files CTRs on the business. Or, as other officials noted, a waiting period of less than 1 year would be appropriate if the ownership of a business changed but the transaction activity remained relatively similar to that under the previous owner, or if known customers chose to form new businesses. We analyzed FinCEN's data to identify the numbers and frequency of CTRs filed on customers that were subsequently exempted. We found that, among customers that were initially exempted in 2006, the median number of CTRs filed in the 12 months preceding the exemption was 14; the median number filed in the 8 months preceding exemption was 11; and in the preceding 6 months, it was 9.<sup>52</sup> This analysis demonstrates that many customers that were later exempted engaged in more than the 8 transactions in a 12-month period required by FinCEN—generating thousands of unnecessary CTRs.

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<sup>51</sup>According to the guidance, this means at least 1 CTR transaction every 6 weeks. For seasonal businesses, the guidance allows institutions to have engaged in at least eight large transactions during a portion of the year, provided the customer has had an account with the institution for at least 1 year.

<sup>52</sup>This analysis is based on the 10,305 initial Phase II exemptions filed in 2006 (76 percent of all such exemptions) that (1) could be linked to a depository institution and (2) for which at least 1 CTR had been filed.

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FinCEN promulgated its regulations establishing the 12-month requirement before enactment of the USA PATRIOT Act. That law provided for customer identification programs, for which FinCEN regulations require depository institutions to collect sufficient information to verify the identity of customers when they first open an account.<sup>53</sup> Thus, depository institutions must require new business customers to provide their name, physical location, and taxpayer identification number, at a minimum, at account opening. Furthermore, as noted above, BSA compliance programs require depository institutions to monitor their customers for suspicious activity. Thus, continuing to require a 12-month period before allowing otherwise nonsuspicious customers with large numbers of cash transactions to be exempted may needlessly cause depository institutions to file CTRs that are not highly useful to law enforcement efforts.

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### Material to Help Train Institutions on Requirements Could Increase Use of Exemptions

FinCEN currently provides material on its Web site, such as answers to frequently asked questions, rulings and guidance, and information on BSA requirements. However, the responses to frequently asked questions and rulings and guidance concerning exemptions are limited and dated.<sup>54</sup> Forty-eight percent of respondents to our survey indicated that the availability of Web-based material from FinCEN would greatly or moderately increase their use of the Phase I exemption, and 51 percent of respondents said it would greatly or moderately increase their use of the Phase II exemption. Such material would help train respondents' staff and guide them in interpreting and applying the exemption requirements. Officials of depository institutions we interviewed generally indicated that they currently purchase training modules from vendors, hire trainers, or have their compliance officers develop in-house training.

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<sup>53</sup>31 C.F.R. §103.121(b)(2). The regulations stipulate that, under the USA PATRIOT Act, the Customer Identification Program must include risk-based procedures for verifying a customer's identity that enable the depository institution to form a reasonable belief that it knows the true identity of the customer.

<sup>54</sup>The majority of responses to frequently asked questions and guidance on the FinCEN Web site related to CTR exemptions are largely technical and dated from 2000 through 2002.



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Our work suggests that material to help train staff could assist depository institutions in making some eligibility determinations under both the Phase I and Phase II regulations and help overcome difficulties that often dissuade institutions from greater use of the exemptions. As previously discussed, our survey results and interviews with depository institution officials highlighted difficulties in determining the portion of a customer's gross revenue derived from lines of business not eligible for the exemption, which dissuaded some institutions from using the Phase II exemption. Similarly, about 39 percent of survey respondents indicated that difficulties in determining eligibility was a factor of great or very great importance in their decision not to exempt a customer eligible for the Phase I exemption.<sup>55</sup> The difficulties included determining whether customers are "listed" (publicly traded) companies or are majority-owned subsidiaries of such companies. FinCEN's regulations provide that institutions may, among other things, rely on documents filed with the Securities and Exchange Commission or listings of the three stock exchanges published in newspapers or available on Web sites.<sup>56</sup> However, officials we interviewed stated that verifying the publicly traded status of customers was not always straightforward, and it is sometimes difficult to determine ownership structures. For example, officials from one bank explained that the bank held a number of accounts for a large publicly traded video rental chain; some of the stores were corporately owned while others were independent franchises. While the company-owned stores would be part of the publicly traded company, the franchise operations were not likely to be publicly traded. The bank did not exempt any of these accounts, however, to avoid the risk of exempting a customer that was not eligible for the Phase I exemption. Further, some survey respondents stated they had difficulty determining eligibility when a customer is a subsidiary of a listed company. One respondent noted that his institution would not attempt to exempt such a customer because it was too difficult to document eligibility in this case.

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<sup>55</sup>The 95 percent confidence interval for this estimate is within +/-15 percentage points.

<sup>56</sup>The Securities and Exchange Commission requires public companies to disclose meaningful financial and other information to the public, which provides a public source for all investors to use to judge for themselves if a company's securities are a good investment. These reports are publicly available through the EDGAR database on the Securities and Exchange Commission's Web site.

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In addition, our analysis of FinCEN's data on exemptions filed from 2004 through 2006 suggests that institutions might benefit from the availability of Web-based material from FinCEN. For example, we found that some institutions were filing biennial renewals for Phase I exemptions, even though FinCEN regulations require renewals only for Phase II exemptions. Also, our interviews with examiners from the federal banking regulators indicated that further training might encourage appropriate use of exemptions. For example, examiners from FDIC and OCC reported that some institutions had difficulty distinguishing between businesses eligible for the Phase I and Phase II exemptions. Some examiners reported that they were educating depository institution staff about the exemption requirements, as well as credit union examiners in particular, on the use of Phase I exemptions for correspondent banks.<sup>57</sup>

Treasury's 2002 report on the uses of CTRs noted the importance of making the exemption system easier for bank personnel to understand. In preparing that report, FinCEN relied in part on a contractor's survey of depository institutions, including their exemption practices and the reasons underlying them. The contractor concluded that FinCEN should offer a Web-based training module on its Web site to clarify the exemption process. Our work for this report indicates Web-based material that would help train staff could encourage institutions to make greater use of exemptions, thereby avoiding the filing of CTRs that are of little or no use to law enforcement efforts. Providing such material on FinCEN's Web site would be a cost-effective way to help ensure that all institutions have available up-to-date information on how to meet the requirements.

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## Conclusions

Since GAO reported over a decade ago that the large volume of CTR reports had made analysis difficult, expensive, and time consuming, developments in information technology have provided law enforcement with the capacity to simultaneously analyze large quantities of CTR data and link these with other data sets. These technological advancements, as well as the advent of bulk data downloads and expanded access to CTR data by state and local users, have provided law enforcement agencies with greater potential to make use of CTR data in their investigations of a wide variety of financial and related crimes. Further, in addition to supporting specific investigations, CTR requirements aid law enforcement by forcing

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<sup>57</sup>A correspondent bank is a financial institution that performs financial services for another financial institution, such as a bank or credit union.

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criminals—who attempt to avoid reportable transactions—to act in ways that increase chances of detection through other methods. Given the multiplicity of sources that federal law enforcement officials may tap in their investigations, and the variety of possible case outcomes, it is understandably difficult to link the use of CTRs with specific outcomes. However, information that law enforcement agencies could provide on how CTRs contribute to their efforts, similar to information they provide on their use of Suspicious Activity Reports, is not systematically provided to depository institutions or shared with state and local law enforcement agencies that have more recently gained access to BSA data. Many depository institutions indicated a desire for some assurance that the information they provide is actually useful to law enforcement efforts. FinCEN routinely collects and makes available information on how Suspicious Activity Reports have contributed to investigations through publication of its *SAR Activity Review*. A similar approach for collecting and publishing CTR information could provide financial institutions with evidence that their efforts are contributing to detecting and deterring money laundering and other crimes. While recognizing that this effort would entail an investment of resources, we believe it would prove beneficial by providing depository institutions with greater awareness that CTRs are a valuable source of data for law enforcement investigations.

With the partial exception of institutions that file the largest numbers of CTRs and have personnel dedicated to that function, most institutions are not able to quantify their costs of complying with CTR requirements, largely because they use the same personnel and automated systems for a variety of purposes. Nevertheless, depository institutions expend what could be considered to be significant amounts of time and resources to meet the requirements. Most depository institutions, based on over 35 years of collective experience in filing CTRs, have established processes that have allowed the filing of most CTRs to become fairly routine. Yet, while technology has helped them meet filing requirements more efficiently, it is clear that most institutions' processes involve steps that cannot be completely automated. These include reviews by compliance officers or other officials to provide assurance that CTRs are correct and will not unduly expose their institutions to risk of being cited for BSA noncompliance by their examiners. Further, because all institutions are subject to compliance with CTR requirements, all incur some costs—for example, in training their staff—regardless of the numbers of CTRs they file. While impacts could therefore vary among institutions depending on the numbers of CTRs they currently file as well as the processes they use,

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steps to reduce the number of unnecessary CTRs filed could avoid some costs.

Increasing use of exemptions would help depository institutions avoid filing unnecessary CTRs, as well as reduce the government's costs to process them. Institutions we surveyed told us they do not exempt all customers they consider eligible. Because the transactions of exempt customers are likely to be of little use to law enforcement efforts, steps to encourage the use of exemptions among depository institutions would not be harmful to law enforcement and could avoid some CTR filing costs. Our work indicates that FinCEN can take several steps that could increase the use of the exemption process. While some involve changes to regulations, they are largely consistent with goals outlined in FinCEN's 2006-2008 strategic plan:

- The uncertainty surrounding the level of documentation required to demonstrate the portion of a business's gross revenue that is derived from ineligible sources appears to unduly restrict the use of the Phase II exemption. Institutions reported using a variety of types of documentation, and the federal banking regulators did not have consistent views on what is required to demonstrate eligibility. In this regard, clearer guidance from FinCEN on acceptable documentation, made available to depository institutions and their examiners, could increase the use of exemptions without increasing the risk of being cited for a violation.
- The regulatory requirement to biennially renew Phase II exemptions causes institutions who elect to exempt their customers to undertake steps that duplicate those required for annual reviews (also required by regulation) in order to file a form on March 15, regardless of the date of the original exemption. While FinCEN requires the biennial renewals to ensure that banks are properly monitoring their customers for suspicious activity and properly granting exemptions as required, the federal banking regulators address both of these requirements as part of their BSA examination process. Further, as a practical matter, institutions must "know their customers" under provisions of the USA PATRIOT Act—enacted after FinCEN promulgated the CTR exemption regulations—that require the institutions to verify the customers'

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identities and monitor their transactions.<sup>58</sup> The biennial renewal thus appears to provide no additional benefit, and eliminating the requirement could encourage institutions who have not exempted customers for this reason to do so. According to FinCEN, it has authority under existing statutes to revise the regulations to eliminate the biennial renewals. To the extent that its authority is not sufficient, it could seek such authority from the Congress through legislation.

- To exempt certain customers that the Money Laundering Suppression Act mandated be exempted, as appropriate—governmental agencies and other depository institutions—FinCEN’s regulations require depository institutions to file the same form, and annually review the supporting documentation, as it does for public companies and their majority-owned subsidiaries. Yet, governmental agencies and other depository institutions are not likely to undergo changes that would affect their eligibility for exemption, and all CTRs filed on such entities are likely to be of little or no use to law enforcement efforts. Removing the requirement to file the form and annually review the supporting information could encourage greater use of this exemption and avoid unnecessary CTRs.
- While institutions can currently exempt otherwise eligible customers with frequent cash transactions, FinCEN’s regulations require that they can do so only after the customer has had an account for 1 year. During this time, the institution must continue filing CTRs on the customer’s transactions, even when from the institution’s perspective the customer is eligible but for the fact that the 12-month period had not elapsed. Permitting institutions to exempt businesses with frequent cash transactions within a time period of less than 1 year could help avoid the need to file unnecessary CTRs.
- Finally, a significant percentage of our survey respondents indicated that the availability of Web-based material to train and guide their staff would increase their use of both Phase I and Phase II exemptions. Our work shows that difficulties institutions experience in interpreting requirements often dissuaded them from greater use of the exemptions. In addition, institutions reported that they incur costs to train significant

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<sup>58</sup>Under provisions of the USA PATRIOT Act, certain institutions must have and implement policies, procedures, and internal controls, for example, to verify customers’ identities and file necessary BSA reports.

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numbers of staff annually, and the availability of Web-based material on exemption requirements could help to alleviate some of these costs. Web-based material would be an effective way for FinCEN to assist institutions in making exemption determinations and could ensure that all institutions had the most up-to-date information on exemption requirements.

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## Recommendations for Executive Action

To help depository institutions better understand the value of CTRs to law enforcement efforts, we recommend that the Secretary of the Treasury direct FinCEN to consider routinely providing summary information on the use of CTRs in law enforcement efforts, similar to that provided on the use of Suspicious Activity Reports.

To encourage greater use of CTR exemption provisions and avoid the burden of filing CTRs that are likely to be of little or no value to law enforcement efforts, we recommend that the Secretary of the Treasury direct FinCEN to take the following five actions:

- Provide guidance for depository institutions and federal banking regulators on the documentation needed to demonstrate the portion of a business's gross revenue that is derived from activities ineligible for the exemption.
- Remove the regulatory requirement that depository institutions biennially renew Phase II exemptions—seeking legislation to provide additional authority, if needed.
- Remove the regulatory requirement that depository institutions file exemption forms, and annually review the supporting information, for banks; federal, state, and local governmental agencies; and entities exercising federal, state, and local governmental authority.
- Consider changing the regulatory provisions in order to permit depository institutions to exempt otherwise-eligible nonlisted customers who frequently engage in large cash transactions within a period of time shorter than 12 months.
- Provide Web-based material to help train and guide staff of depository institutions in determining eligibility for exemptions.

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## Agency Comments and Our Evaluation

We provided a draft of this report for review and comment to the heads of Departments of Homeland Security, Justice, and the Treasury; the Federal Reserve; FDIC; NCUA; OCC; and OTS. We received written comments from FinCen and, in a joint letter, from the Federal Reserve, FDIC, NCUA, and OTS. These comments are summarized below and reprinted in appendixes V and VI. The Departments of Homeland Security, Justice, and the Treasury, the Federal Reserve, and FDIC also provided technical comments, which we incorporated into this report, where appropriate.

In its written comments, FinCEN said that the report's findings based upon information gathered from law enforcement reinforce the value law enforcement gains through active use of CTRs. FinCEN concurred with the recommendations seeking regulatory amendments and the recommendations related to providing guidance and materials to aid industry in making eligibility determinations for CTR exemptions. Finally, with regard to our recommendation that FinCEN consider routinely providing summary information on the use of CTRs in law enforcement efforts, FinCEN said it will consider options to provide industry with additional feedback on the use of CTRs by law enforcement.

In their joint letter, the Federal Reserve, NCUA, OTS, and FDIC reaffirmed their support for effective administration of the BSA and said they believe that streamlining and clarifying the exemption regulations, as we recommend, would be a positive step.

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We are sending copies of this report to interested congressional committees, the Secretaries of the Treasury and Homeland Security, the Attorney General, and the heads of the Federal Reserve, FDIC, IRS, NCUA, OCC, and OTS. We will also make copies available to others on request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

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If you or your staff have any questions about this report, please contact me at (202) 512-6878 or [woodd@gao.gov](mailto:woodd@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VII.

David G. Wood

David G. Wood  
Director, Financial Markets and Community Investment



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# Objectives, Scope, and Methodology

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As mandated by the Financial Services Regulatory Relief Act of 2006, we examined several aspects of currency transaction reports (CTR), including their usefulness to law enforcement, the burden on depository institutions for filing them, and potential changes to the exemption process. Specifically, our objectives were to determine: (1) the usefulness of CTR requirements to federal, state, and local law enforcement agencies; (2) the costs to depository institutions of meeting CTR requirements; and (3) factors that affect depository institutions' decisions to exempt or not exempt eligible customers, including opportunities for encouraging use of exemptions while maintaining the usefulness of CTR data to law enforcement agencies. We conducted this performance audit in Washington, D.C., and Miami from November 2007 through February 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Assessing the Usefulness of CTR Requirements to Law Enforcement

We relied on two primary methods to obtain information: (1) structured interviews with federal law enforcement agencies and (2) a survey of all state and local agencies that access CTR data through FinCEN's Gateway portal, supplemented by structured interviews. We used structured interviews to obtain specific information on the usefulness of CTRs, how changes in technology have affected their usefulness, and what changes could be made to CTR filing requirements that likely would not harm their usefulness to law enforcement. In addition, the Financial Crimes Enforcement Network (FinCEN), Immigration and Customs Enforcement (ICE), the Federal Bureau of Investigation (FBI), and the Organized Crime Drug Enforcement Task Force (OCDETF) provided demonstrations of how they apply their software to analyze bulk CTR data, and FinCEN provided demonstrations of how the Gateway program can be used to access Bank Secrecy Act (BSA) data through WebCBRS.

We selected federal law enforcement agencies to interview largely based on their level of CTR usage, as measured by the number of "views" of CTR records in 2006 and whether they had received access to bulk data sets (see table 4 for a list of these agencies.) While FinCEN and the Internal Revenue Service (IRS) could provide the number of CTRs viewed through the Gateway program, we also obtained data from Department of Homeland Security for the number of CTRs viewed through the Treasury

**Appendix I**  
**Objectives, Scope, and Methodology**

Enforcement Communications System (TECS) and the IRS for the number of CTRs viewed directly from WebCBRS. While the number of times an agency has “viewed” a CTR is not a measure of “usefulness” or “utility” of a CTR, it does provide an indication of how frequently CTRs were consulted as part of an ongoing investigation. In addition, we interviewed officials from Criminal Division/Asset Forfeiture and Money Laundering Section because this group is the focal point for money laundering and asset forfeiture matters within the Department of Justice, as well as officials from the OCDETF Fusion Center, which analyzes CTR data in bulk to improve OCDETF’s ability to disrupt and dismantle drug trafficking organizations and their financial components.

**Table 4: Federal Agencies We Interviewed and Number of CTR Views, Fiscal Year 2006**

<b>Federal agency</b>	<b>Bulk user</b>	<b>Gateway program user</b>	<b>TECS user</b>	<b>Number of CTR views</b>
Internal Revenue Service <sup>a</sup>	Yes	No	Yes	912,405
U.S. Immigration and Customs Enforcement	Yes	Yes	Yes	207,325
Financial Crimes Enforcement Network	Yes	No	Yes	136,090
U.S. Drug Enforcement Administration <sup>b</sup>	No	Yes	No	108,507
Federal Bureau of Investigation <sup>c</sup>	Yes	Yes	Yes	54,290
Bureau of Alcohol, Tobacco, Firearms, and Explosives	No	Yes	Yes	10,124
United States Secret Service	Yes	Yes	Yes	9,424
United States Postal Inspection Service	No	Yes	No	3,586
United States Attorneys Offices	No	Yes	No	1,814
U.S. Securities and Exchange Commission	No	Yes	No	1,195

Source: GAO analysis of IRS, FinCEN, and Department of Homeland Security data.

Notes: While the way that the three agencies define views is generally similar, how they actually count them may vary. The number of views of CTRs includes those filed by all financial institutions, for example, depository institutions and money services businesses.

<sup>a</sup>We interviewed officials from IRS–Small Business/Self-Employed and IRS–Criminal Investigation, the two units within IRS with the most CTR views.

<sup>b</sup>DEA includes CTRs viewed by the El Paso Intelligence Center, which is a DEA program.

<sup>c</sup>FBI includes CTRs viewed by the National Crime Information Center.

To obtain the viewpoints of state and local law enforcement agencies on the usefulness of CTRs, we conducted a Web-based survey of all state and local law enforcement agencies that had access to CTR data through FinCEN's Gateway program as of May 2007.<sup>1</sup> Eighty-nine of the 115 agencies we surveyed completed the questionnaire for an overall response rate of 77 percent. During the development of our questionnaire, we pretested it with 7 law enforcement agencies from Florida, Maryland, New Jersey, Virginia, and Washington, D.C, and one regulatory agency from Kansas. We obtained the e-mail addresses and the names of contacts from FinCEN and opened the survey on July 5, 2007. During the course of the survey, we sent three follow-up e-mails to nonrespondents and then made telephone follow-up calls to remaining nonrespondents to address any problems they had and to encourage response. To learn more about agencies' responses, and to obtain more information on other agencies to which our surveyed agencies had provided BSA data access, we conducted short follow-up interviews by telephone or exchanged e-mail with six respondents. We closed the survey on August 17, 2007.

Although this survey was conducted with all of the state and local law enforcement agencies in our population, and therefore is not subject to sampling error, the practical difficulties of conducting any survey may introduce other errors. For example, difficulties in interpreting a particular question or sources of information available to respondents can introduce unwanted variability or bias into the survey results. Nonresponse to the interview or certain questions can also result in increased variability or bias. We took steps in developing the questionnaire, and collecting and analyzing the data, to minimize such nonsampling errors. While the response rate of 77 percent is high, if those not responding differed materially from those responding on any particular question we analyzed, our analysis may not accurately represent the group surveyed. Our results therefore best represent only those responding to our survey.

To provide more specific information about the usefulness of CTRs than we could obtain by survey, we also interviewed state and local law enforcement officials. We interviewed 14 law enforcement agencies from California, Florida, Illinois, New Jersey, New York, and Texas because

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<sup>1</sup>These agencies were located in the 50 states, the District of Columbia, and Puerto Rico. They included law enforcement agencies, such as police departments and state bureaus of investigation, legal agencies such as prosecutor's offices, and regulatory agencies such as state banking departments.

many of these agencies numbered among the highest users of CTRs and were located in states where a higher proportion of CTRs were filed in 2006. In addition, we interviewed 3 law enforcement agencies from Kentucky, Minnesota, and New Mexico, states where the viewing of CTRs was less frequent. Finally, we interviewed officials from four High Intensity Money Laundering and Related Financial Crimes Areas (HIFCA)—Chicago, New York, the Southwest Border, and the California Southern District—to identify whether and how CTRs were useful to law enforcement task forces with specific money-laundering responsibilities.

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### Costs to Depository Institutions of Meeting CTR Requirements

Overall, we used questionnaires, structured interviews, and other methods to obtain information on the time and resources depository institutions expend to meet CTR requirements. (Depository institutions include institutions regulated by the Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board (Federal Reserve), Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), and state regulatory officials, and credit unions regulated by National Credit Union Administration (NCUA) and state regulatory authorities.)

### CTR and Depository Institution Analysis

To meet the mandate's data analysis requirements, we obtained from FinCEN data on the CTRs and exemptions filed for 3 calendar years. This data consisted of all of the CTRs and designation of exempt person reports submitted by depository institutions during calendar years 2004, 2005, and 2006. We chose this period because these were the 3 most recent years for which FinCEN had complete data. To ensure that we only tracked CTRs that were filed by the depository institutions within a given year, we only analyzed CTRs that could be clearly identified as being from that year. We excluded a total of 1,977,092 CTRs, or about 4.8 percent of the total number of CTRs that FinCEN's data showed as being filed in 2004, 2005, and 2006. We also separated the remaining 38,829,864 CTRs into new (37,784,310) and amended (1,045,554) CTRs. We analyzed these data to identify the characteristics of CTRs and exemptions filed. For example, we identified the number of CTRs filed for withdrawals and deposits, the number based on aggregated rather than single transactions, and the median number of CTRs filed by institutions of different sizes. For exemptions, among other analyses, we identified the numbers filed for Phase I and Phase II exemptions.

In order to construct a population of depository institutions that file CTRs, we needed to combine data files from several sources. We obtained year-end data for the names and asset sizes as measured in dollars of all banking depository institutions (banks) from the Federal Reserve Board. In addition, we obtained from NCUA the names and asset size of all credit unions insured by the National Credit Union Insurance Fund. We matched the CTR data from FinCEN and with information on depository institutions provided by the Federal Reserve and NCUA to create a single data set. Approximately 1 percent of CTRs that we received from FinCEN (number of CTRs) could not be matched and were excluded from our analysis.

Table 5 summarizes the distribution of institutions and percentage of CTRs across several size categories for banks and credit unions.

**Table 5: Number of CTRs Filed by Asset Size Category of Depository Institutions in 2006**

<b>Institution asset size category</b>	<b>Total number of depository institutions in each category</b>	<b>Percentage of all depository institutions filing CTRs</b>
Very large banks (greater than \$50 billion)	27	.2
Large banks (\$1 billion to less than \$50 billion)	575	5.0
Midsized banks (\$100 million to less than \$1 billion)	4,264	36.9
Small banks (less than \$100 million)	3,032	26.2
Credit unions (\$100 million or more)	1,190	10.3
Credit unions (\$10 million to less than \$100 million)	2,137	18.5
Credit unions (less than \$10 million)	344	3.0

Source: GAO.

Note: We were unable to classify 82 institutions by asset size category because of inconsistencies between the FinCEN and depository institution data.

**Selection of Depository Institutions and Examiners to Be Interviewed**

The primary purpose of the structured interviews, which were conducted by phone and in person by GAO analysts, was to obtain detailed information about the CTR process, as well as the personnel, technology, and training costs associated with filing CTRs and exemptions. As part of

our pretesting, we determined that information on costs could not be reliably collected by means of a self-administered Web survey because banks had difficulties in estimating their costs in the same way unless we prompted them with specific questions and adjusted our questions to match their accounting practices.

In determining which depository institutions to interview, we primarily considered their asset size. Because the number of banks we categorized as very large was small (27), we interviewed the top 5 filers of CTRs, who alone accounted for 36 percent of CTRs filed. In addition, we conducted 18 structured interviews with banks and credit unions that were categorized as small, midsize, and large in terms of assets. To select which institutions to interview, we conducted a random sample of small, midsize, and large institutions included in our CTR database. While the results of our interviews are not statistically representative of all institutions in their size category, this method enabled us to capture the viewpoints of some of the small institutions that may have been excluded from our survey.

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### Factors Affecting Use of Exemptions and Opportunities to Increase Use

To identify the factors affecting depository institutions' decisions regarding use of CTR exemption provisions, we surveyed a sample of institutions. (Complete survey results can be viewed at [http://www.gao.gov/cgi-bin.getrpt?GAO-08-385SP](http://www.gao.gov/cgi-bin/getrpt?GAO-08-385SP).) We also obtained and analyzed data on the results of BSA examinations from, and interviewed officials of, the five federal banking regulatory agencies. We used information from these sources, along with a review of CTR filing and exemption regulations, to identify opportunities for potentially increasing use of exemptions.

### Selection of Depository Institutions to Be Surveyed and Survey Response Rate

The survey was primarily designed to elicit the viewpoints of bank and credit union officials on the amount of time it takes their institution to meet CTR filing requirements and their use of the Phase I and Phase II exemption process. In addition, the survey asked about possible changes that could be made to the exemption process to reduce some of the potential burden financial institutions may face in meeting the exemption requirements and increase the likelihood institutions would use the exemption process.

We conducted a Web-based survey of a sample of depository institutions located in the 50 states and the District of Columbia. Our study population consisted of 3,880 banks and credit unions we were able to identify as having filed at least 120 CTRs in 2006 and whose size (as measured by the dollar value of their assets) in 2006 we were able to determine. Since

institutions must file a minimum of 8 CTRs on a business over the course of a year before the business becomes eligible for the exemption, we excluded those institutions that filed fewer than 120 CTRs in 2006 from our survey to minimize the number of institutions that would have relatively fewer opportunities to file exemptions. As a result of applying this selection criterion, about 85 percent of the smallest banks and 90 percent of credit unions filing CTRs were excluded from our survey. To obtain the viewpoints of these institutions to at least some extent, we included them in our universe used to sample institutions for structured interviews.

We selected a stratified random sample of 680 from this study population, where the strata were defined by a combination of asset size and type of institution (bank or credit union).<sup>2</sup> Table 6 summarizes the population size, sample size, and disposition of sample separately by stratum. Whenever possible, we sent the survey to each institution's compliance officer because we believed this officer would be best positioned facilitate a response from the institution. We obtained a listing of these officers and their e-mail addresses from their respective regulator. The overall response rate to our survey was 68 percent. The survey estimates included in this report were formed by weighting the survey data to account for both sample design and the response rates for each stratum. In addition, the response rate varied by question, however, since not all questions were asked of all institutions, and institutions could skip questions.

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<sup>2</sup>We originally selected a sample of 699 institutions, but 19 of these institutions were excluded for various reasons, such as bank mergers.

**Table 6: Survey Population and Response Rate**

Institution asset size category	Number filing at least 120 CTRs per year	Number included in our survey sample	Number responding to the survey
Very large banks (greater than \$50 billion)	24	24	19
Large banks (\$1 billion to less than \$50 billion)	508	138	90
Midsized banks (\$100 million to less than \$1 billion)	2,563	252	169
Small banks (less than \$100 million)	453	141	92
Credit unions (\$100 million or more)	332	125	99
<b>Total</b>	<b>3,880</b>	<b>680</b>	<b>469</b>

Source: GAO.

Since the primary focus of the survey was to obtain viewpoints on the exemption process, most of our questions focused on institutions' use of exemptions. To develop the questions in the questionnaire, we interviewed representatives of depository institutions, their trade organizations, and their regulators; and FinCEN. The questionnaire also included proposals on how to modify the exemption system. To develop these proposals, we reviewed (1) the legislative history relating to the Money Laundering Suppression Act of 1994 and the subsequent rule-making process, (2) reports that previously assessed opportunities to modify the exemption process, and (3) current proposals to modify the exemption process, including those proposed by trade groups and depository institutions that we interviewed.<sup>3</sup> Finally, we pretested the questionnaire with the representatives of eight banks and two credit unions to check that (1) the questions were clear and unambiguous, (2) terminology was used correctly, (3) the questionnaire did not place an undue burden on institutions, (4) the information could feasibly be obtained, and (5) the survey was comprehensive and unbiased. We made changes to the content and format

<sup>3</sup>Reports on the exemption procedures included the report submitted by Deloitte & Touche in October 2002 to FinCEN on the Bank Secrecy Act and exemption procedures, and FinCEN's subsequent report, *Report to the Congress, Use of Currency Transaction Reports*, submitted by FinCEN on behalf of the Department of the Treasury (October 2002).



of the questionnaire after each of the first pretests, based on the feedback we received.

Our probability sample is used to produce estimates of the population of 3,880 institutions that filed more than 120 CTRs in 2006. As with all sample surveys, our results contain sampling error—potential error that arises from not collecting responses from all of the institutions that we surveyed. Because we followed a probability procedure based on random selections, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95 percent confidence interval (e.g., plus or minus 8 percentage points). This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. As a result, we are 95 percent confident that each of the confidence intervals in this report will include the true values in the study population. All percentage estimates in this report have 95 percent confidence intervals of within plus or minus 8 percentage points of the estimate, unless otherwise noted. Other numerical estimates (for example, medians or means) have 95 percent confidence intervals of within plus or minus 8 percent of the value of the estimate, unless otherwise noted. In addition to sampling error, the practical difficulties of conducting any survey may introduce errors. For example, difficulties in interpreting a particular question or sources of information available to respondents can introduce unwanted variability into the survey results. We took steps in developing the questionnaire, collecting the data, and analyzing them to minimize such nonsampling error. To minimize nonresponse error we sent 3 follow-up e-mail messages to those who had not yet responded. Then we attempted to contact all remaining nonrespondents by telephone. It is possible that characteristics of responding institutions could differ from characteristics of institutions that did not respond to our survey. To the extent that this is the case, our sample estimates may differ from the actual values of the population as a whole.

#### Selection of Examiners and Violation Data

To obtain the viewpoints of bank and credit union examiners on how CTR regulations are applied, and the types of problems that CTR examinations surface, we interviewed 15 examiners located in field offices, and officials located in the headquarters offices, of the federal banking regulators, as well as state regulators from California, Florida, and New York. To determine how many CTR violations resulted from BSA examinations, we obtained data from each of the federal banking regulators. In addition, we obtained data on FinCEN's fines and enforcement actions. We selected

regulator field offices in which to interview examiners based on whether they were located in areas where high concentrations of CTRs were filed in 2006. These areas were largely in California, Florida, New York, and Illinois. However, the examiners we interviewed from these field offices could also speak to their experiences with banks that were located in other geographic locations and institutions that filed low numbers of CTRs in the geographic areas for which they had responsibility

**Opportunities for Improving the Exemption System**

Survey responses from depository institutions indicated potential ways to encourage use of exemptions. To obtain additional viewpoints and to understand the implications of making specific changes to the current exemption-filing requirements, we obtained the viewpoints of officials from FinCEN and the federal banking regulators. To understand how changes would need to be implemented, we analyzed the statutory requirements in the Money Laundering Suppression Act, the regulatory requirements, and guidance issued by FinCEN to identify which regulatory requirements were specifically rooted in statute.

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# Law Enforcement Agencies' Use of CTR Data

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## Technological Advances Have Increased Potential Uses

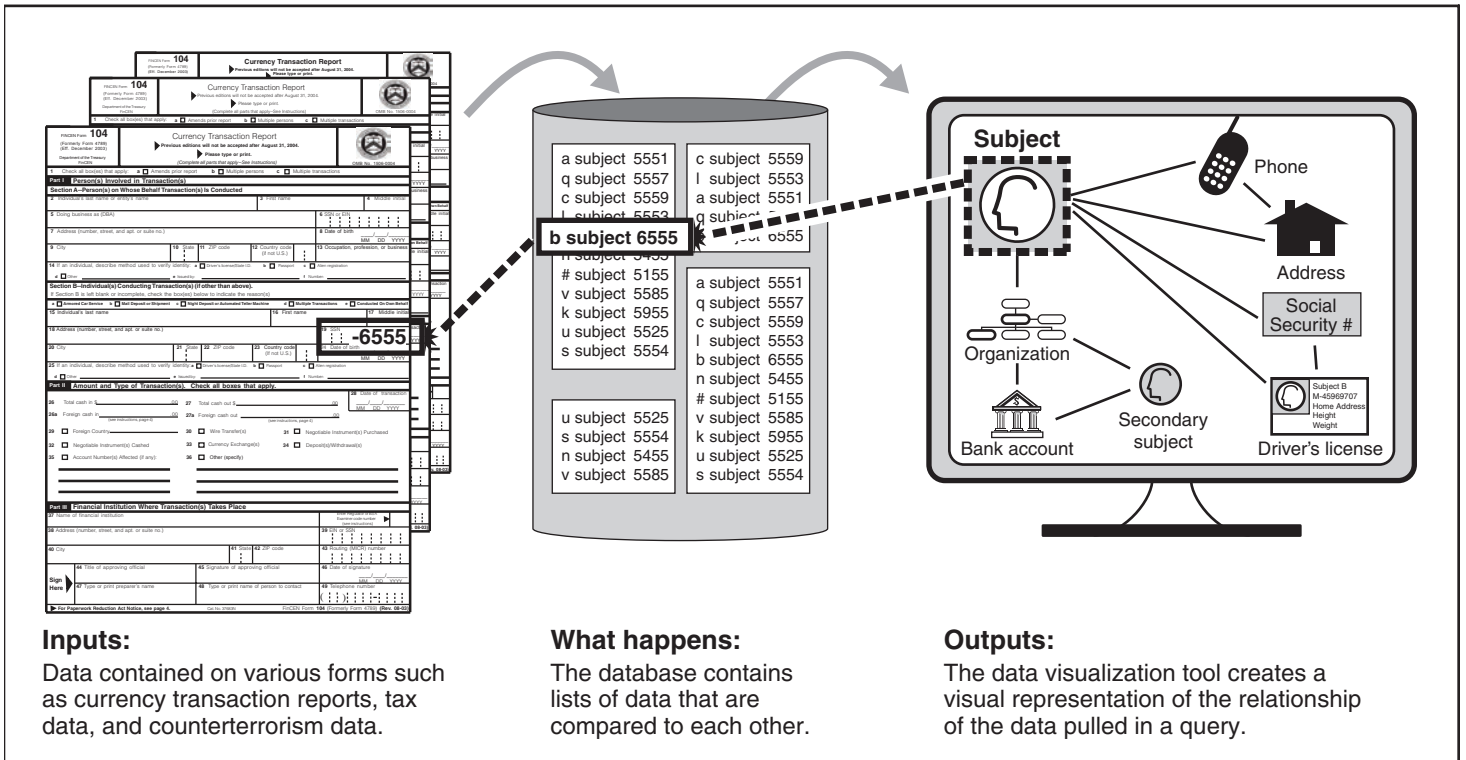
Access to bulk BSA data, including CTRs, allows law enforcement agencies to conduct more sophisticated analyses by combining the BSA data with other data sets. Both FinCEN and IRS's Criminal Investigation unit (IRS-CI) have this capability—FinCEN since 2002 and IRS-CI since 2005—enabling them to analyze BSA data in conjunction with their own data sets. FinCEN reports that its analysts have access to four primary data sources: BSA data, databases of criminal reports from other federal law enforcement agencies, FinCEN's own database of investigations, and commercial databases that contain identifying information on individuals and businesses. IRS-CI investigators have access to BSA data, tax data, and counterterrorism data. For instance, IRS uses its Reveal system to identify financial crimes, including individual and corporate tax frauds, and terrorist activity.<sup>1</sup> The system allows users to establish a profile of the actions and persons associated with the search and develop reports that include graphical depictions of the data (see fig. 9). For example, IRS can search Reveal to identify when a car dealer deposited large amounts of cash, as recorded by CTRs, but also to determine whether the car dealer filed any Form 8300s, which document the source of that cash.

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<sup>1</sup>For more information, see GAO, *Data Mining: Agencies Have Taken Key Steps to Protect Privacy in Selected Efforts, but Significant Compliance Issues Remain*, [GAO-05-866](#) (Washington, D.C.: Aug. 15, 2005).

**Appendix II**  
**Law Enforcement Agencies' Use of CTR Data**

**Figure 9: An Overview of the Reveal Data Mining System**



Sources: GAO analysis of agency data; Art Explosion (clip art).

FinCEN has also provided bulk data access to the Secret Service. The Secret Service received its first test data in January 2006 and is in the process of combining BSA data with information relating to financial investigations, including data on identity theft, credit card fraud, and counterfeit U.S. currency. Secret Service officials told us that all 3,200 staff across the agency will be granted access to the Secret Service database that will house the bulk BSA data.

Among agencies that continue to access BSA data through the Internet, many officials commented that WebCBRS had given them greater capabilities to analyze CTR data, because they could download large volumes of data and analyze them at their desktops. IRS and Securities and Exchange Commission officials commented that the new system was easier to use because it displayed CTR data in a format that closely resembled the actual CTR document. State law enforcement officials from

agencies in New York and Illinois that coordinate requests for BSA data reported that the new system made it easier for them to distribute CTR data to law enforcement agencies, because they could easily download and export the data directly into a PDF file or spreadsheet application. (In contrast, officials said that under the old CBRS system, a user had to copy, paste, and manually format each CTR record prior to distribution.) In 2007, FinCEN added a new feature to WebCBRS that allows users to download and export BSA data to a commercial database application, where users can use link analysis techniques to explore associations between various data sets.<sup>2</sup> According to FinCEN officials, technology such as this will likely be useful for the proactive analysis of CTR data, particularly at the state and local law enforcement level.

In general, many law enforcement officials indicated that the technological advances had already increased their use of CTRs or would continue to do so.

- Investigators with the New York County District Attorney's Office told us that they added 10 new Gateway user accounts last year because they were getting more requests for BSA data. They noted that prosecutors had been requesting CTR data more often as word of mouth spread about the value of CTRs as corroborating sources of evidence.
- A Gateway coordinator for New York told us he had conducted training sessions across the state with local police departments on the value of CTR data and the importance of searching for CTR data at the beginning of an investigation.
- An official associated with a HIFCA said she had been promoting awareness of the WebCBRS download feature and creative ways to proactively analyze CTR data, such as an analysis of CTRs filed for certain occupations.

DEA officials noted that as a result of a DEA directive mandating that all of the agency's investigations include a financial component, the number of

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<sup>2</sup>According to FinCEN, link analysis is a technique used to explore associations among a large collection of data of different types. In the case of financial data, the connections might include, for example, names, addresses, bank accounts, businesses, and cash deposits. Combining and linking these pieces of data from multiple sources add layers of understanding to the behavior the data represents.

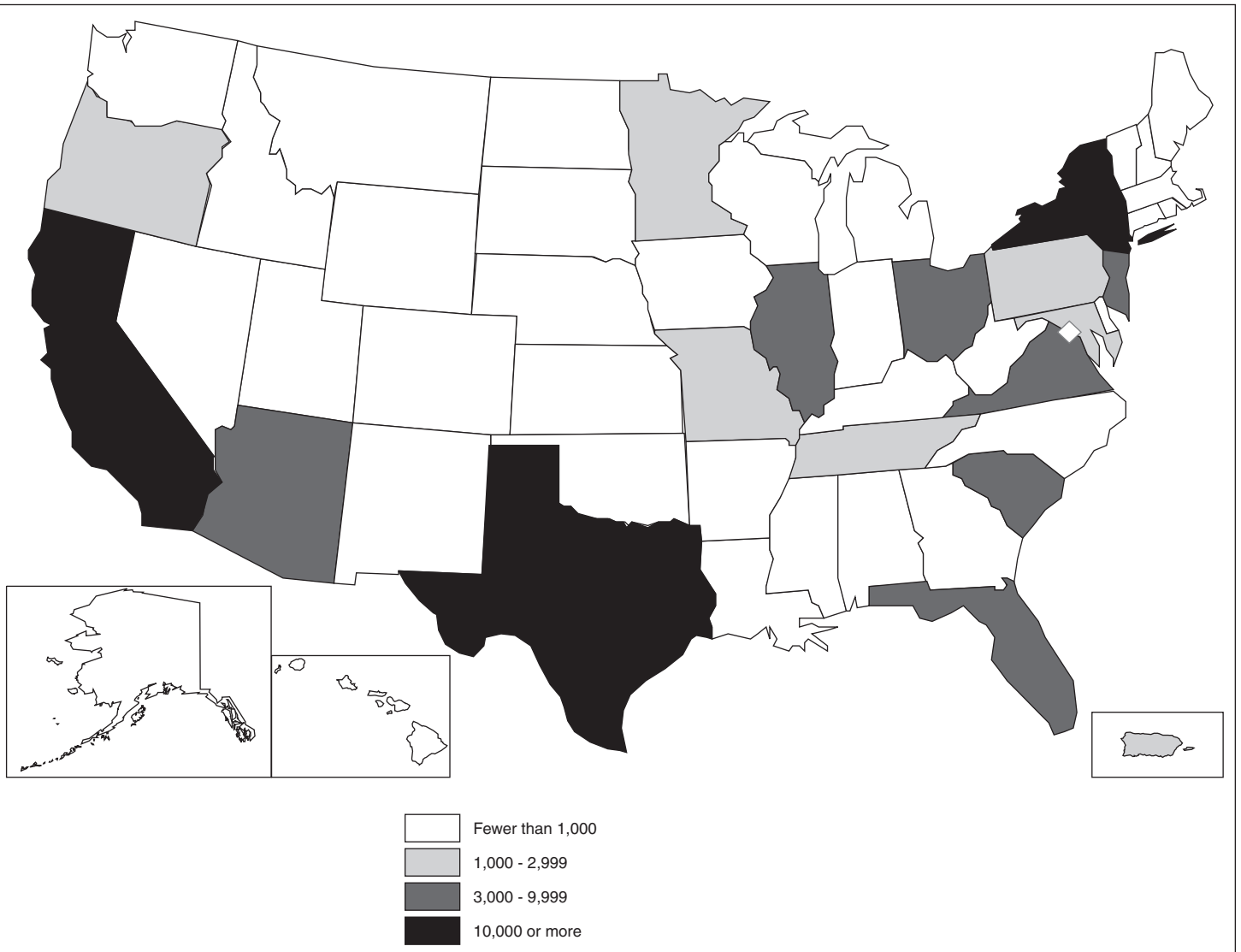
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its Gateway users increased by 34 percent from the end of calendar year 2004 to the end of calendar year 2006.

Data from FinCEN indicate that state and local use of CTR data has been somewhat concentrated. Figure 10 shows the numbers of CTR “views” through FinCEN’s Gateway program in 2006. (Gateway is the primary means of access to BSA data for state and local law enforcement users.)

**Appendix II**  
**Law Enforcement Agencies' Use of CTR Data**

**Figure 10: States That Viewed CTR Data, by Number of CTRs Viewed in the Gateway Program, Fiscal Year 2006**



Sources: GAO (analysis); Art Explosion (map).

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## Case Examples Illustrate CTRs' Usefulness to Federal, State, and Local Law Enforcement Investigations

The examples below illustrate the varied roles that CTRs can play in federal, state, and local law enforcement investigations. CTRs filed by depository institutions helped initiate or support the investigations, which include tax, money laundering, fraud, and narcotics cases. (Because of the sensitive nature of this information, references to subjects' names and other identifiers have been removed.)

### Examples from IRS

- IRS investigators initiated a case based on a call from a bank security officer who reported that a bank customer was receiving large tax refunds into his accounts and withdrawing the funds in cash. Using known bank account numbers, the investigators searched the agency's Currency Banking and Retrieval System (CBRS), which contains CTR data, and identified CTRs showing large "cash outs." The investigators found data that they believed indicated that 30 different bank accounts were used to perpetuate the tax refund scheme, and 23 refunds went into accounts identified through CTRs. Moreover, the CTRs identified accounts controlled by relatives of the bank customer. Consequently, the CTRs provided probable cause to obtain and execute a search warrant at the residence of a relative. Ultimately, investigators learned that the scheme involved about 125 tax returns and more than \$500,000 in false claims. According to IRS, the CTRs helped narrow the focus of the investigation and saved valuable time in identifying the responsible parties in the scheme. IRS further noted that without the CTRs, the investigation would have been delayed for weeks or months, allowing the scheme to continue and potentially resulting in substantial additional loss to the government.
- IRS initiated a tax investigation from a Suspicious Activity Report (SAR) disclosing that business receipts had been deposited into a personal account. According to IRS, the dollar amount reported in the SAR was not substantial, and based on the SAR information alone, the investigation would not have proceeded. However, queries of CBRS identified more than 125 CTRs related to the person under investigation, which were filed over a 3-year period for amounts in excess of \$3.5 million. Further investigation determined that the person failed to report almost all of the \$3.5 million gross receipts on his business tax returns. The person further concealed these transactions by failing to file personal income tax returns or, in some years, misreported the income to IRS. When confronted with the evidence developed from the CTRs, the person cooperated with IRS and assisted with an undercover



operation. According to IRS, without the CTR information, IRS may not have opened the investigation.

- Investigators searched CBRS for information relating to a person suspected of trafficking narcotics, including all of the person's known relatives and associates. A depository institution had filed a CTR on the person's sister, reporting a deposit of \$100,000 in cash into her account. The financial investigation on the sister revealed that she did not have enough legitimate income to justify a deposit of \$100,000 in cash. Based on the CTR, investigators subpoenaed bank records, which showed evidence of a real estate purchase in Florida using the \$100,000 as a down payment. Further investigation showed that the person had conducted the entire real estate transaction, and the sister had been used as a nominee (that is, a person in whose name assets are transferred). These transactions were the basis for money-laundering charges against the person. The evidence in the CTR implicated the sister, and was instrumental in obtaining a guilty plea by the person. The person received a 20-year prison sentence and forfeited more than \$500,000 in assets.

### Examples from Immigration and Customs Enforcement

- Following the September 11 attacks, ICE investigators in Texas proactively analyzed CTR data and identified an unlicensed *hawala* sending money to several Middle Eastern countries. (A *hawala* is an informal banking system that provides a mechanism for the remittance of currency or other forms of monetary value without physical transportation or the use of contemporary monetary instruments.) Multiple same-day cash deposits, with each deposit less than \$10,000, were being made into the *hawala's* bank account at various branches of the same bank across Texas. According to ICE, this illegal activity would not have been detected without CTRs because the bank activity was spread across 11 counties. As a result of the investigation, the *hawala* was shut down, and a total of \$346,701 was seized and forfeited.
- ICE investigators in New York received information that an illegal money-laundering operation was being operated out of a phone card booth in Manhattan. Standard preliminary steps to identify the persons involved had failed because of the nicknames used by them, variations in translations of the names (which were foreign), and the persons' immigration status. However, investigators searched for CTR data and found approximately 1,300 CTRs had been filed on the suspected

business. The volume of CTRs revealed accounts held at multiple banks. Although most of the accounts had been closed, the CTRs provided crucial details of the alleged illegal activity and assisted in identifying members of the involved organization; for example, information on the CTRs was used in an affidavit for a search warrant for the target business and to obtain grand jury subpoenas for bank accounts. Two principal persons allegedly involved were arrested and charged with money laundering, alien smuggling, and conspiracy. These arrests were conducted simultaneously with the arrests of 35 members of an Asian criminal gang in Manhattan who were identified as having been involved in the money-laundering operation.

- ICE investigators in Chicago initiated an investigation of a local business based on information in CTRs and SARs that showed different individuals making deposits into several bank accounts controlled by the business and possible structuring violations. The investigation revealed that the business may have been operating as an illegal money transmitter. The business owner instructed his customers to deposit money into his bank account, charged a nominal fee to remit money on their behalf, and arranged for the transfer of money on computers located in his apartment. The business owner was arrested and charged with operating an unlicensed money services business.
- SARs filed on a business located in New York suspected of trafficking counterfeit goods showed that certain persons may have been structuring cash deposits into the business's account to avoid CTRs being filed. However, on many occasions the persons deposited more than \$10,000, and the depository institution filed CTRs. The CTRs were instrumental in identifying the co-conspirators apparently involved in the illegal operation, and investigators used the CTR information to apply for grand jury subpoenas, which produced bank account records of the alleged conspirators and provided further evidence of money laundering. The CTRs also were used in the affidavit for a seizure warrant for bank accounts. The investigation revealed that during a 1-year period, the alleged conspirators had laundered approximately \$5 million to China through wire transfers. In total, seven individuals were charged with money laundering and trafficking in counterfeit goods and the funds in the six accounts belonging to the members of the conspiracy were seized.

### **Examples from the Drug Enforcement Administration**

- Surveillance of a suspected drug “stash house” led to the discovery of a vehicle registered to a business located in central California. A search of BSA data revealed the existence of approximately 1,600 CTRs filed on the business over a 3-year period. Later, DEA intelligence revealed that similarly registered vehicles had been observed during other surveillance operations in central and Southern California. The earlier CTRs identified all of the conductors of the transactions as individuals, but later cash deposits were being made by armored carrier. DEA ultimately determined that the evidence indicated that the business represented the cash side of the drug trade and the business was being used to deposit the illicit proceeds. Investigators discovered that more than 2,000 CTRs documenting in excess of \$100 million in cash deposits had been filed on the business over a 5-year period. However, no SARs were ever filed.
- A DEA office provided another DEA office with information suggesting that a certain person was involved in drug trafficking, money laundering, and terrorist financing in the receiving office’s area of responsibility. The only leads the receiving office had were the person’s name, date of birth, and Social Security number. Investigators searched CBRS and found CTRs. These CTRs helped indicate to them that the person was engaging in criminal activity. The CTRs identified the person’s place of employment, bank account numbers, and other individuals that had conducted cash transactions on behalf of the person under investigation.

### **Examples from the Federal Bureau of Investigation**

- CTRs assisted FBI investigators in unraveling a complex case involving Medicare fraud. Over a 2-year period, the Medicare system paid several million dollars to dozens of “front” durable medical equipment companies that in turn wrote checks to nonexistent medical equipment supply companies. These checks were allegedly cashed at several check-cashing businesses, which all maintained bank accounts at the same local bank. The review of CTRs filed by the bank revealed several hundred million dollars paid out in the form of cash to the check cashers over a relatively short period. Approximately 90 percent of this bank’s revenues were derived from its check-cashing business client base. At the suggestion of the FBI, the bank’s regulator started an examination of the bank, which uncovered evidence that a bank insider was

participating in an illegal money services business. The bank was fined and ultimately ceased operations.

- A search of BSA data in support of a narcotics money-laundering investigation produced more than 3,000 reports, the vast majority of which were CTRs. Through further analysis of the CTRs, the FBI was able to confirm and document a critical suspected link between certain persons under investigation in different states.

#### **Example from the Secret Service**

- CTRs assisted Secret Service investigators in identifying a person that had allegedly committed investment fraud. The victims of the fraud had given checks to the person for investments; however, the person would either cash or deposit the checks. Depository institutions filed CTRs on these transactions, which provided a direct link to the person. Further investigation disclosed that the person had been involved in a similar scheme in another part of the same state and had pending arrest warrants. The total estimated loss in the case was more than \$400,000. Authorities also conducted asset seizures and forfeitures in this case.

#### **Examples from State or Local Governments**

- Investigators with the Chicago Police Department searched for CTRs on a business suspected of laundering drug money in the mid-1990s and identified a CTR that reported a cash withdrawal of \$17,000 by a fork-lift driver. Investigators subsequently issued a subpoena for related bank records and discovered that the bank account, a personal checking account, had received more than \$52 million in deposits through wire transfers over an 18-month period. Funds deposited into this account then were redistributed through checks drawn on the account and negotiated across southern Texas. Investigators contacted IRS-CI and identified this lead to a nationwide major drug money-laundering case.
- Investigators with the California Department of Justice used CTRs to identify bank accounts for a subpoena of bank records in support of an investigation on health care fraud. The CTRs linked several physicians to Russian organized crime figures that had set up a series of storefront clinics and medical diagnostic test companies. Some of the CTRs showed evidence of structuring, while others showed the involvement of family members, such as a 19-year-old son on record as the “corporation president,” when in reality he was fronting for his parents.

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**Appendix II**  
**Law Enforcement Agencies' Use of CTR Data**

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The information on the CTRs also led the investigators to consult corporate fraud investigators, who were helpful in providing SARs about these same activities.

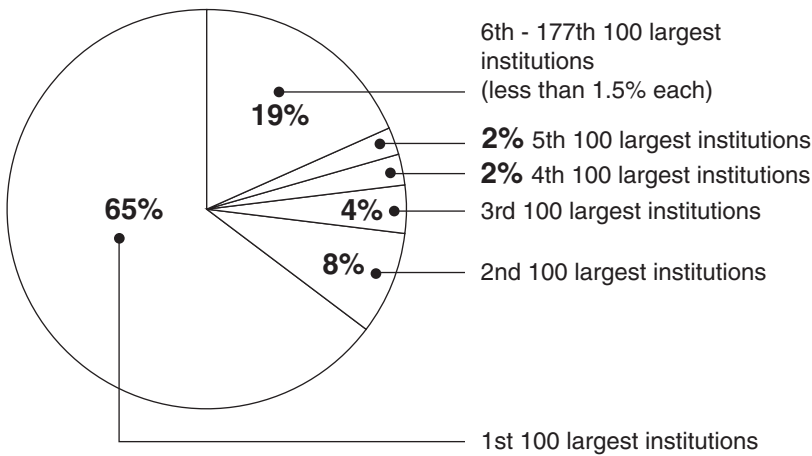
# Information on CTRs Filed from 2004 to 2006

The Financial Services Regulatory Relief Act of 2006 asked us to analyze CTR filing data and to categorize these data according to the size of financial institutions, in groups of 100. Figure 11 shows that the 100 largest institutions accounted for 65 percent of all CTRs filed in 2006, while the portion of CTRs filed by smaller institutions (in categories of 100) diminished along with institution size.



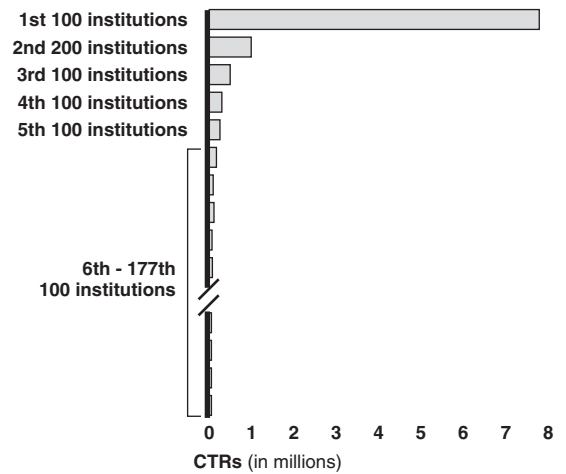
**Figure 11: CTRs Filed in 2006, by Institution Asset Size**

**Percentage of CTRs filed by largest institutions**



Source: GAO.

**Number of CTRs filed by institution asset size (ranked highest to lowest)**



**Appendix III**  
**Information on CTRs Filed from 2004 to 2006**

Table 7 shows CTR filing data, aggregated for 2004 through 2006, by institution size category.

**Table 7: Number and Percentage of CTRs Filed by Institution Type, 2004-2006**

Institution	New CTRs		Amended CTRs	
	Number of CTRs	Percentage of CTRs	Number of CTRs	Percentage of CTRs
Bank: less than \$100 million	711,007	1.9	90,379	8.6
Bank: \$100 million to less than \$1 billion	4,872,316	12.9	398,574	38.1
Bank: \$1 billion to less than \$50 billion	11,545,642	30.6	268,073	25.6
Bank: \$50 billion or more	20,161,126	53.4	191,784	18.3
Credit union: less than \$10 million	3,771	0	2,216	0.2
Credit union: \$10 million to less than \$100 million	102,892	0.3	28,185	2.7
Credit union: \$100 million or more	387,556	1	66,343	6.3
<b>Total</b>	<b>37,784,310</b>	<b>100</b>	<b>1,045,554</b>	<b>100</b>

Source: GAO.

Note: An amended CTR is a correction to an initial CTR filed by the financial institution.

**Appendix III  
Information on CTRs Filed from 2004 to 2006**

Table 8 shows the mean averages and the median numbers of CTRs filed by institution size category.

**Table 8: Mean and Median Numbers of CTRs Filed by Size of Institution, 2004-2006**

Institution	2004		2005		2006	
	Mean	Median	Mean	Median	Mean	Median
Bank: less than \$100 million	83	22	78	23	67	17
Bank: \$100 million to less than \$1 billion	428	195	428	193	349	154
Bank: \$1 billion to less than \$50 billion	8,451	2,282	7,438	2,278	6,334	1,889
Bank: \$50 billion or more	288,193	148,545	289,599	142,295	243,736	125,202
Credit union: less than \$10 million	4	1	5	1	4	1
Credit union: \$10 million to less than \$100 million	24	5	13	5	14	5
Credit union: \$100 million or more	99	43	118	49	117	47
<b>Total</b>	<b>1,137</b>	<b>43</b>	<b>1,177</b>	<b>46</b>	<b>1,061</b>	<b>41</b>

Source: GAO.

Note: In statistics, both the mean and the median are measures of central tendency and are also referred to as averages. The median is the midpoint in a distribution; in this case, half of the institutions in each size category filed more than the median number of CTRs, and half filed fewer.



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**Appendix III**  
**Information on CTRs Filed from 2004 to 2006**

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Table 9 shows the total number of CTRs that were based on multiple transactions—that is, transactions that in the aggregate amounted to more than \$10,000 on the same day for a single account.

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**Table 9: Number of CTRs Based on Aggregated Transactions, 2004-2006**

	<b>Number of CTRs based on multiple transactions</b>	<b>Percentage of all CTRs filed</b>
2004	8,710,754	66.9
2005	9,047,781	65.8
2006	8,158,049	65.4
<b>2004-2006 total</b>	<b>25,916,584</b>	<b>66</b>

Source: GAO.

**Appendix III**  
**Information on CTRs Filed from 2004 to 2006**

Tables 10 and 11 show the number of CTRs filed for transactions in which the depository institution received cash (cash-in transactions) and dispensed cash (cash-out transactions), respectively, categorized by the dollar values of the transactions.

**Table 10: Number and Percentage Amount of Cash-In Transactions Recorded by CTRs, 2004-2006**

CTR amount	2004		2005		2006	
	Number of cash-in CTRs	Percentage of cash-in CTRs	Number of cash-in CTRs	Percentage of all CTRs	Number of cash-in CTRs	Percentage of all CTRs
\$10,000 or less	19,765	0.2	19,419	0.2	15,017	0.2
\$10,001 to \$15,000	4,165,255	42.3	4,321,651	42.2	3,844,261	42
\$15,001 to \$20,000	1,856,088	18.8	1,945,226	19	1,738,266	19
\$20,001 to \$25,000	969,947	9.8	1,010,589	9.9	900,627	9.8
\$25,001 to \$30,000	612,969	6.2	636,812	6.2	566,071	6.2
\$30,001 to \$35,000	401,850	4.1	417,913	4.1	369,215	4
\$35,001 to \$40,000	292,981	3	302,029	2.9	269,586	2.9
\$40,001 to \$45,000	212,212	2.2	218,732	2.1	195,482	2.1
\$45,001 to \$50,000	168,452	1.7	174,690	1.7	156,774	1.7
More than \$50,000	1,148,599	11.7	1,199,836	11.7	1,090,745	11.9
<b>Total</b>	<b>9,848,118</b>	<b>100</b>	<b>10,246,897</b>	<b>100</b>	<b>9,146,044</b>	<b>100</b>

Source: GAO.

**Appendix III  
Information on CTRs Filed from 2004 to 2006**

**Table 11: Number and Percentage of Cash-Out Transactions Recorded by CTRs, 2004-2006**

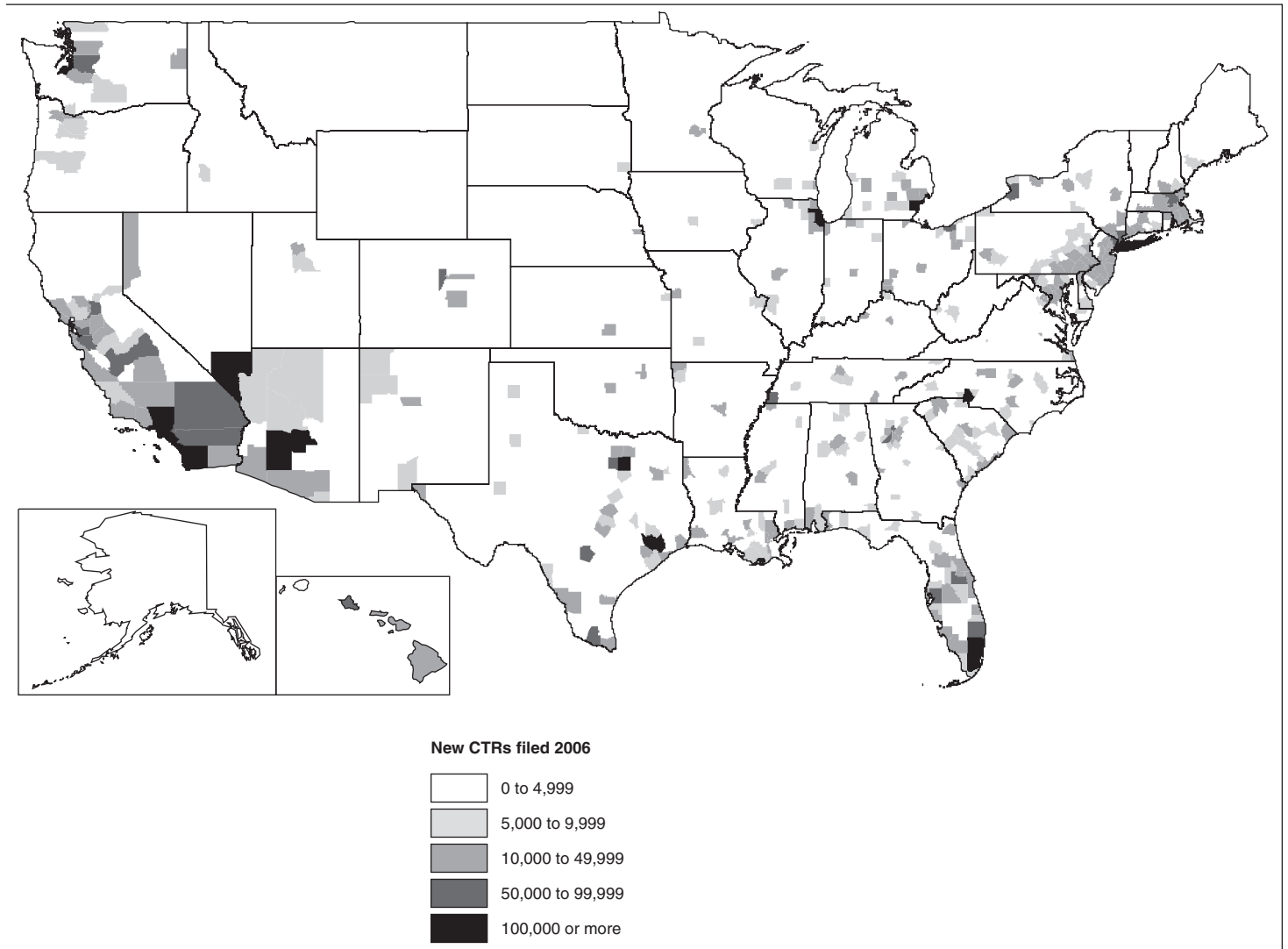
CTR amount	2004		2005		2006	
	Number of cash-out CTRs	Percentage of cash-out CTRS	Number of cash-out CTRs	Percentage of cash-out CTRS	Number of cash-out CTRs	Percentage of cash-out CTRS
\$10,000 or less	30,142	0.9	28,364	0.8	20,240	0.6
\$10,001 to \$15,000	1,122,836	33.3	1,289,605	34.5	1,237,693	34.9
\$15,001 to \$20,000	611,869	18.2	677,749	18.1	635,963	17.9
\$20,001 to \$25,000	289,851	8.6	319,485	8.5	296,953	8.4
\$25,001 to \$30,000	238,613	7.1	261,010	7	244,157	6.9
\$30,001 to \$35,000	130,609	3.9	140,668	3.8	130,827	3.7
\$35,001 to \$40,000	136,177	4	148,137	4	139,199	3.9
\$40,001 to \$45,000	79,128	2.3	84,758	2.3	79,081	2.2
\$45,001 to \$50,000	100,180	3	107,915	2.9	102,515	2.9
More than \$50,000	628,961	18.7	682,254	18.2	662,877	18.7
<b>Total</b>	<b>3,368,366</b>	<b>100</b>	<b>3,739,945</b>	<b>100</b>	<b>3,549,505</b>	<b>100</b>

Source: GAO.

Appendix III  
Information on CTRs Filed from 2004 to 2006

Figure 12 shows the geographic dispersion of CTRs filed in 2006, by county.

Figure 12: CTRs Filed in 2006, by County



Sources: GAO (analysis); Map Resources (map).

# Additional Information on Depository Institutions' Use of Exemptions

Table 12 shows the total number of Phase I exemptions filed during 2006 by type of customer (bank, government, listed company, or listed government subsidiary), by institutions of different sizes. While depository institutions are not required to file biennial renewals for Phase I customers, the data show that some institutions did so.

**Table 12: Number and Percentage of Phase I Exemptions Filed by Depository Institutions, 2006**

Institution	2006						
	Initial exemptions		Biennial renewals		Total exemptions		
	Total number	Percentage of total	Total number	Percentage of total	Total number	Percentage of total	
Bank: less than \$100 million	Bank	511	65.1	205	61.4	716	64
	Government	133	16.9	47	14.1	180	16.1
	Listed company	111	14.1	63	18.9	174	15.5
	Listed company subsidiary	30	3.8	19	5.7	49	4.4
	<b>Total</b>	<b>785</b>	<b>100</b>	<b>334</b>	<b>100</b>	<b>1,119</b>	<b>100</b>
Bank: \$100 million to less than \$1 billion	Bank	819	42.9	329	39.5	1,148	41.9
	Government	672	35.2	230	27.6	902	32.9
	Listed company	305	16	228	27.4	533	19.4
	Listed company subsidiary	114	6	45	5.4	159	5.8
	<b>Total</b>	<b>1,910</b>	<b>100</b>	<b>832</b>	<b>100</b>	<b>2,742</b>	<b>100</b>
Bank: \$1 billion to less than \$50 billion	Bank	581	28.1	51	36.4	632	28.7
	Government	1,040	50.4	45	32.1	1,085	49.2
	Listed company	338	16.4	33	23.6	371	16.8
	Listed company subsidiary	105	5.1	11	7.9	116	5.3
	<b>Total</b>	<b>2,064</b>	<b>100</b>	<b>140</b>	<b>100</b>	<b>2,204</b>	<b>100</b>
Bank: \$50 billion or more	Bank	532	18.7	6	60	538	18.8
	Government	1,208	42.5	3	30	1,211	42.4
	Listed company	500	17.6	1	10	501	17.5
	Listed company subsidiary	605	21.3			605	21.2
	<b>Total</b>	<b>2,845</b>	<b>100</b>	<b>10</b>	<b>100</b>	<b>2,855</b>	<b>100</b>

**Appendix IV  
Additional Information on Depository  
Institutions' Use of Exemptions**

(Continued From Previous Page)

Institution		2006					
		Initial exemptions		Biennial renewals		Total exemptions	
		Total number	Percentage of total	Total number	Percentage of total	Total number	Percentage of total
Credit union: less than \$10 million	Bank	24	85.7	1	100	25	86.2
	Government	3	10.7			3	10.3
	Listed company						
	Listed company subsidiary	1	3.6			1	3.4
<b>Total</b>	<b>28</b>	<b>100</b>	<b>1</b>	<b>100</b>	<b>29</b>	<b>100</b>	
Credit union: \$10 million to less than \$100 million	Bank	81	61.4	6	33.3	87	58
	Government	18	13.6	5	27.8	23	15.3
	Listed company	33	25	7	38.9	40	26.7
	Listed company subsidiary						
<b>Total</b>	<b>132</b>	<b>100</b>	<b>18</b>	<b>100</b>	<b>150</b>	<b>100</b>	
Credit union: \$100 million or more	Bank	79	63.2	25	53.2	104	60.5
	Government	31	24.8	18	38.3	49	28.5
	Listed company	13	10.4	4	8.5	17	9.9
	Listed company subsidiary	2	1.6			2	1.2
<b>Total</b>	<b>125</b>	<b>100</b>	<b>47</b>	<b>100</b>	<b>172</b>	<b>100</b>	
<b>Total</b>	Bank	<b>2,627</b>	<b>33.3</b>	<b>623</b>	<b>45.1</b>	<b>3,250</b>	<b>35.1</b>
	Government	<b>3,105</b>	<b>39.4</b>	<b>348</b>	<b>25.2</b>	<b>3,453</b>	<b>37.2</b>
	Listed company	<b>1,300</b>	<b>16.5</b>	<b>336</b>	<b>24.3</b>	<b>1,636</b>	<b>17.6</b>
	Listed company subsidiary	<b>857</b>	<b>10.9</b>	<b>75</b>	<b>5.4</b>	<b>932</b>	<b>10.1</b>
	<b>Total</b>	<b>7,889</b>	<b>100</b>	<b>1,382</b>	<b>100</b>	<b>9,271</b>	<b>100</b>

Source: GAO.

Table 13 shows the total number of Phase II initial exemptions and biennial renewals filed during 2006, by type of customer (nonlisted businesses and payroll customers), by institutions of different sizes.

**Appendix IV  
Additional Information on Depository  
Institutions' Use of Exemptions**

**Table 13: Number and Percentage of Phase II Exemptions Filed by Depository Institutions, 2006**

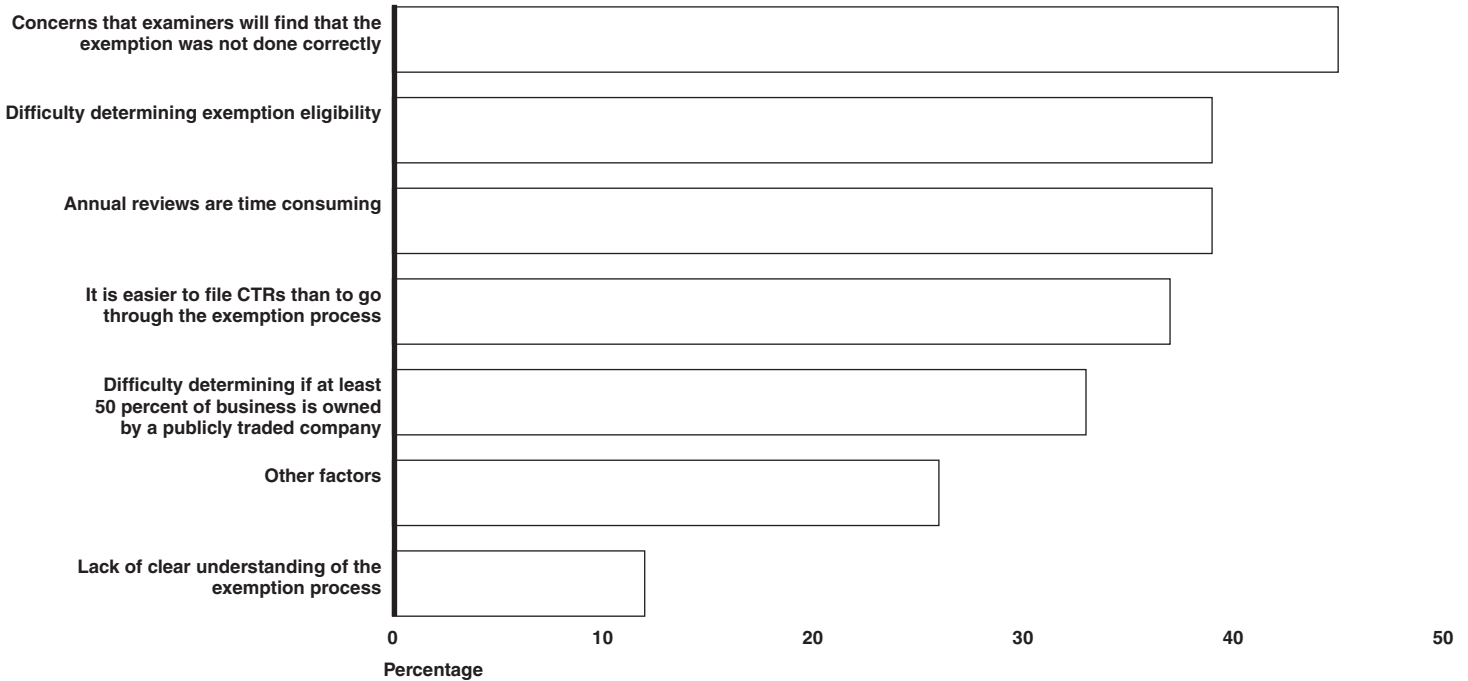
Institution		Initial exemptions		Biennial renewals		Total exemptions	
		Number	Percentage of total	Number	Percentage of total	Number	Percentage of total
Bank: less than \$100 million	Nonlisted businesses	803	99	1,618	99.9	2,421	99.6
	Payroll customers	8	1	2	0.1	10	0.4
	<b>Total</b>	<b>811</b>	<b>100</b>	<b>1,620</b>	<b>100</b>	<b>2,431</b>	<b>100</b>
Bank: \$100 million to less than \$1 billion	Nonlisted businesses	4,501	99.5	9,149	99.9	13,650	99.7
	Payroll customers	22	0.5	13	0.1	35	0.3
	<b>Total</b>	<b>4,523</b>	<b>100</b>	<b>9,162</b>	<b>100</b>	<b>13,685</b>	<b>100</b>
Bank: \$1 billion to less than \$50 billion	Nonlisted businesses	4,982	100	7,729	99.9	12,711	100
	Payroll customers	2	0	4	0.1	6	0
	<b>Total</b>	<b>4,984</b>	<b>100</b>	<b>7,733</b>	<b>100</b>	<b>12,717</b>	<b>100</b>
Bank: \$50 billion or more	Nonlisted businesses	2,714	100	2,002	100	4,716	100
	Payroll customers			1	0	1	0
	<b>Total</b>	<b>2,714</b>	<b>100</b>	<b>2,003</b>	<b>100</b>	<b>4,717</b>	<b>100</b>
Credit union: less than \$10 million	Nonlisted business	7	100	2	100	9	100
	<b>Total</b>	<b>7</b>	<b>100</b>	<b>2</b>	<b>100</b>	<b>9</b>	<b>100</b>
Credit union: \$10 million to less than \$100 million	Nonlisted businesses	217	96.9	63	92.6	280	95.9
	Payroll customers	7	3.1	5	7.4	12	4.1
	<b>Total</b>	<b>224</b>	<b>100</b>	<b>68</b>	<b>100</b>	<b>292</b>	<b>100</b>
Credit union: \$100 million or more	Nonlisted businesses	188	96.9	168	98.2	356	97.5
	Payroll customers	6	3.1	3	1.8	9	2.5
	<b>Total</b>	<b>194</b>	<b>100</b>	<b>171</b>	<b>100</b>	<b>365</b>	<b>100</b>
<b>Total</b>	Nonlisted businesses	<b>13,412</b>	<b>99.7</b>	<b>20,731</b>	<b>99.9</b>	<b>34,143</b>	<b>99.8</b>
	Payroll customers	<b>45</b>	<b>0.3</b>	<b>28</b>	<b>0.1</b>	<b>73</b>	<b>0.2</b>
	<b>Total</b>	<b>13,457</b>	<b>100</b>	<b>20,759</b>	<b>100</b>	<b>34,216</b>	<b>100</b>

Source: GAO.

**Depository Institutions Not Using Phase I or Phase II Exemptions Cited a Number of Similar Factors for Not Using the Exemptions**

As shown in figures 13 and 14 below, respondents to our survey cited a number of similar factors that were important in their decision not to exempt customers eligible for Phase I and Phase II exemptions. Concern that examiners would find that the exemption was not done correctly was the top concern among banks that did not exempt Phase I customers and the second-ranked concern among banks that did not exempt Phase II customers. Difficulty in determining eligibility was ranked second for those not exempting Phase I customers and fifth for those not exempting Phase II. Banks also responded that another major reason for not using the exemption was that it was easier to file CTRs than to go through the exemption process. Finally, those not exempting Phase I or Phase II customers responded that the time-consuming nature of the annual reviews was a major reason they did not use the exemption.

**Figure 13: Factors That Institutions Considered to Be of Very Great or Great Importance When Deciding Not to Exempt a Phase I Eligible Customer**



Source: GAO.

Note: The 95 percent confidence intervals for these estimates are within +/- 15 percentage points, except for "other factors," which is within +/-26 percentage points of the estimate.



Institutions that did not exempt customers that were eligible for the Phase I exemption cited difficulty determining eligibility as a reason for not using the Phase I exemption. More specifically, survey respondents and officials we interviewed noted that verifying the publicly traded status of customers could be difficult (see fig. 13). Typically, to verify this information, staff of depository institutions would need to check the listing information from three exchanges as well as use a search engine called EDGAR on the Securities and Exchange Commission Web site to search for public filings that the company made.<sup>1</sup> On average, officials of institutions we surveyed said conducting this research took about 1 hour per exemption. However, verification of listing status and ownership represents only a portion of the effort involved in ascertaining eligibility for an exemption. Many officials we interviewed said that staff in the compliance office made the exemption determinations after reviewing a customer's account history. For instance, a respondent from a very large bank explained that it was the institution's policy to conduct background checks on the principals of the business being considered for exemption. Another respondent noted that the compliance officer would send a questionnaire to the manager of the branch where the customer held the account; the manager then had to complete the questionnaire and provide supporting documents, including the financial statement for the business of the customer being considered for exemption. In addition, respondents from one very large bank noted that its board had to approve exemption decisions, increasing the time and effort involved.

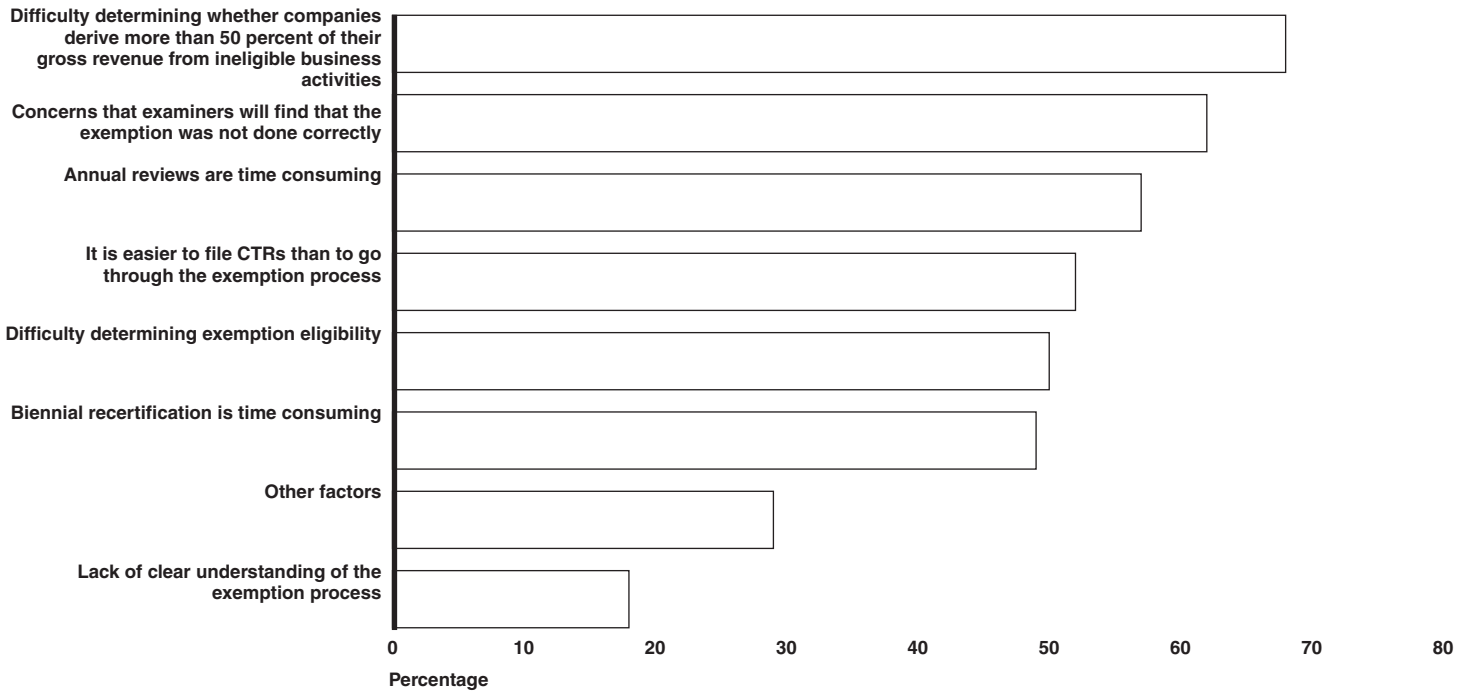
As shown in Figure 14, difficulty in determining whether companies derived more than 50 percent of their gross revenue from ineligible business activities was the primary factor affecting Phase II exemption decisions.

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<sup>1</sup>The Phase I eligibility for publicly traded companies generally applies to any entity (other than a bank) whose common stock is listed on the New York, American, or NASDAQ stock exchanges or any subsidiary of any "listed entity" that is organized under U.S. law and at least 51 percent of whose common stock is owned by a listed entity. The Securities and Exchange Commission's Web site makes available to the public the Electronic Data Gathering Analysis and Retrieval (EDGAR) system database, which includes disclosure documents that public companies are required to file with the commission. EDGAR electronically receives, processes, and disseminates more than 500,000 financial statements every year.

**Appendix IV  
Additional Information on Depository  
Institutions' Use of Exemptions**

**Figure 14: Factors That Institutions Considered to Be of Very Great or Great Importance When Deciding Not to Exempt a Phase II-Eligible Customer**



Source: GAO.

Note: The 95 percent confidence intervals for these estimates are within +/- 12 percentage points except for the "other factors," which is within +/- 24percentage points of the estimate.

**Appendix IV  
Additional Information on Depository  
Institutions' Use of Exemptions**

Table 14 provides data on FinCEN's CTR-related (excluding exemptions) and exemption-related enforcement actions over the period 1997 to 2006. The data show that relatively few enforcement actions involved fines against the institutions.

**Table 14: FinCEN's CTR and Exemption-Related Enforcement Actions on Depository Institutions, 1997-2006**

<b>Year</b>	<b>Number of BSA actions</b>	<b>Number of CTR-related actions without fines</b>	<b>Number of CTR-related actions with fines</b>	<b>Number of exemption-related actions without fines</b>	<b>Number of exemption-related actions with fines</b>
1997	2	0	0	1	1
1998	7	2	0	5	0
1999	13	6	0	7	0
2000	30	17	0	11	2
2001	22	8	0	14	0
2002	47	24	1	22	0
2003	15	8	2	5	0
2004	17	9	1	7	0
2005	58	36	1	21	0
2006	38	24	0	13	1

Source: GAO analysis of FinCEN data.

Note: The actions without fines represent letters that FinCEN's Office of Compliance or Office of Enforcement sent to depository institutions. These actions also were independent actions by FinCEN (that is, not imposed jointly with other regulators). Of the actions with fines, one action in 2003 was imposed jointly with the Federal Reserve, and the sole action in 2004 was accompanied by a joint and concurrent penalty that OCC assessed.

# Comments from the Financial Crimes Enforcement Network



DIRECTOR

DEPARTMENT OF THE TREASURY  
FINANCIAL CRIMES ENFORCEMENT NETWORK

February 8, 2008

Mr. David G. Wood  
Director, Financial Markets and Community Investment  
U.S. Government Accountability Office  
441 G Street N.W.  
Washington, D.C. 20515

Dear Mr. Wood:

Thank you for the opportunity to review and comment on the Government Accountability Office (GAO) draft report entitled, *Bank Secrecy Act: Increased Use of Exemption Provisions Could Reduce Currency Transaction Reporting While Maintaining Usefulness to Law Enforcement Efforts*. Currency Transaction Reports (CTRs), as well as other Bank Secrecy Act (BSA) reports, play a vital role in our efforts to protect the financial system. The report's findings based upon the information gathered from law enforcement reinforce the value they gain through active utilization of CTRs. Both law enforcement and depository institutions provided extensive information to support your findings that is consistent with the feedback we routinely receive in our collaborative efforts.

FinCEN concurs with the three recommendations seeking regulatory amendments. These three recommendations are consistent with our commitment to a risk-based regulatory approach, and are part of our ongoing efforts to make our administration of the BSA more effective and efficient. Additionally, FinCEN concurs with the two recommendations related to guidance and materials to aid industry in making eligibility determinations for CTR exemptions. These recommendations will allow industry to better understand and comply with regulatory requirements, and also increase consistency among regulators. Finally, FinCEN remains committed to providing feedback responsive to industry's needs and will consider options to provide industry with additional feedback on the use of CTRs by law enforcement.

I appreciate the efforts of GAO's audit team in reviewing these important issues. If you have any questions, please feel free to contact Diane Wade, Associate Director for FinCEN's Management Programs Division, at 703-905-5061.

Sincerely,

/s/

James H. Freis, Jr.

cc: The Honorable Stuart Levey  
(Under Secretary, Office of Terrorism and Financial Intelligence)

# Comments from Federal Banking Regulators

**Board of Governors of the Federal Reserve System  
Federal Deposit Insurance Corporation  
National Credit Union Administration  
Office of Thrift Supervision**

February 7, 2008

Mr. David Wood, Director  
Financial Markets and Community Investments  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, D.C. 20548

Dear Mr. Wood;

Thank you for the opportunity to review and comment on the Government Accountability Office's (GAO) report entitled, *Bank Secrecy Act – Increased Use of Exemption Provisions Could Reduce Currency Transaction Reporting While Maintaining Usefulness to Law Enforcement Efforts (GAO 08-355)*. This report reviews the regulatory process wherein depository institutions must file with the Treasury Department's Financial Crimes Enforcement Network (FinCEN) currency transaction reports (CTRs) on customer currency transactions of more than \$10,000 as required by the Bank Secrecy Act (BSA), and the rules relating to exemption from this requirement.

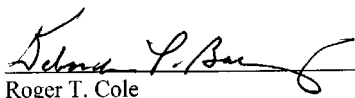
FinCEN, as administrator of the BSA, relies upon the examination programs of the Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency, and the Office of Thrift Supervision (OTS) to review for BSA compliance, inclusive of the CTR and associated customer exemption processes. These agencies examine supervised financial institutions to ensure compliance with the reporting rules that enable federal, state, and local law enforcement authorities to receive reliable information to support investigative efforts in detecting and deterring financial crime.

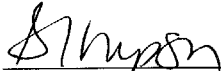
The GAO recommends that the Secretary of Treasury direct FinCEN to consider several actions, including publication of summary information and industry guidance, to promote understanding of CTR utility and clarity of regulatory requirements. The GAO also recommends revision to certain regulations that potentially deter the usage of exemptions from the currency transaction reporting process.


The Board, FDIC, NCUA, and OTS appreciate the opportunity to respond to this mandated review and are strongly committed to our role in ensuring that financial institutions establish and maintain programs to comply with the requirements of the BSA. The Board, FDIC, NCUA, and OTS reaffirm our support for effective and efficient administration of the BSA and believe that streamlining and clarifying the exemption regulations, as the GAO recommends, would be a positive step.

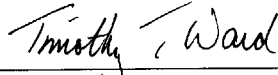
Appendix VI  
Comments from Federal Banking Regulators

Sincerely,

  
for Roger T. Cole  
Director  
Division of Banking Supervision and  
Regulation  
Board of Governors of the  
Federal Reserve System

  
Sandra L. Thompson  
Director  
Division of Supervision and  
Consumer Protection  
Federal Deposit Insurance Corporation

  
J. Leonard Skiles  
Executive Director  
National Credit Union Administration

  
Timothy T. Ward  
Deputy Director, Examinations,  
Supervision, and Consumer Protection  
Office of Thrift Supervision

# GAO Contact and Staff Acknowledgments

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## GAO Contact

David G. Wood, (202) 512-6878 or [woodd@gao.gov](mailto:woodd@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Barbara I. Keller (Assistant Director), Sonja Bensen, John W. Mingus Jr., Eric E. Petersen, Carl Ramirez, Linda S. Rego, Barbara M. Roesmann, Rachel E. Siegel, and Monica L. Wolford made key contributions to this report.

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# Related GAO Products

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*Bank Secrecy Act: FinCEN and IRS Need to Improve and Better Coordinate Compliance and Data Management Efforts.* [GAO-07-212](#). December 15, 2006.

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