

FEDERAL RESERVE BANK OF NEW YORK

NEW YORK, N. Y. 10045

AREA CODE 212-791-5000

AT CR No. 9946(a)
November 6, 1985

To the Chief Executive Officer of
Each Member Bank, Bank Holding
Company, Edge Act or Agreement
Corporation and State licensed
agency or branch of a foreign
bank in the Second Federal Reserve
District:

For over fifty years the Federal Reserve System has asked that each member bank file with the Federal Reserve Bank, regional office of the Federal Bureau of Investigation ("FBI"), and United States Attorney a report of suspected crimes against the bank. In order to strengthen this policy, the Federal Reserve and the other financial institution regulatory agencies have joined with the Department of Justice in agreeing to ask that these reports be submitted on the attached Criminal Referral Form (FR 2230). The purposes of the new form are to provide more specific information needed to determine whether investigation is warranted and to accelerate any investigations that are undertaken.

The information requested and the circumstances under which the information should be reported is indicated on the form. Additional matters related to the form follow.

Bank Holding Companies and Edge Act Corporations. All bank holding companies and Edge Act corporations should submit the form under the same circumstances as would member banks. Non-bank subsidiaries of holding companies and Edge Act corporations are not covered by this request, therefore no Criminal Referral Form need be submitted. Bank subsidiaries should submit the form, but to their primary regulator rather than the Federal Reserve.

Multi-District Organizations. Many bank holding companies, Edge Act corporations and foreign banks have offices in more than one Federal Reserve District. The original form should be filed by the headquarters office (for a foreign bank, its United States headquarters) with that office's Reserve Bank, in addition, copies of the original should be filed with the FBI office and United States Attorney where the branch in which the incident occurred is located.

Foreign Offices. Foreign offices of member banks, bank holding companies and Edge Act corporations (and their bank subsidiaries) should also submit the form through their headquarters office. Foreign offices of foreign banks with State agencies need not file the report unless there is reason to believe that a provision of United States law has been violated.

Effective Date. Criminal Referral Form No. 2230 should be used upon receipt of this letter.

Questions concerning this matter may be directed to Ms. Rita Beck, Supervisor, Supervision Support Division (212) 791-5908.

Frederick C. Schadrack

FREDERICK C. SCHADRACK
SENIOR VICE PRESIDENT

Criminal Referral Form

Attention: This form should be filed by the reporting financial institution not later than seven business days following the discovery of the suspected violation. Additional information not readily available at the time of filing should be submitted on an amended form.

Complete only pages one and two if suspected criminal activity involves actual or probable loss of less than \$10,000 (before any recovery or reimbursement) not involving an executive officer, director, or principal shareholder of the institution within the meaning of Regulation O of the Board of Governors.

One Copy of the completed form should be filed with each of the following: (1) the local U.S. Attorney, (2) the local FBI office, and (3) the Federal Reserve Bank in the District where the financial institution is located.

The Board of Governors of the Federal Reserve System considers this report confidential pursuant to applicable provisions of the Privacy Act, 5 U.S.C. §552a, and the Freedom of Information Act, 5 U.S.C. §552. Accordingly, the report and the information that it contains may be shared with appropriate law enforcement agencies consistent with applicable laws and regulations. In addition, persons identified in the report may in some circumstances be entitled to access to the report under provisions of the Privacy Act.

Complete all items on this form where suspected criminal activity involves actual or probable loss (before reimbursement or recovery) of \$10,000 or greater and in all cases, regardless of the amount, involving an executive officer, director or principal shareholder of the institution within the meaning of Regulation O of the Board of Governors.

See Detailed Instructions on Page 7

1. Name, Location and Number of Reporting Financial Institution

Name _____
Location _____
Street City State ZIP Code
SMB/BHC No. (if available) _____ If activity occurred at branch office(s), please identify _____

2. Asset Size of Reporting Financial Institution (millions of dollars) \$ _____

3. Approximate date and dollar amount (before any allowance for restitution or recovery) of suspected violation

Date _____ Amount (thousands of dollars) \$ _____
Month Day Year

4. a. Summary Characterization of the Suspected Violation. Check appropriate box(es)
 Defalcation/Embezzlement Bribery/Gratuity Other (describe) _____
 False Statement Misuse of Position or Self Dealing _____
 Check Kiting Mysterious Disappearance _____

b. Application Section(s) of U.S. Code (if known). (See list on page 6.) _____

5. This matter is being referred to the FBI in _____
City State
and the U.S. Attorney in _____
City State Judicial District (if known)

6. Person(s) Suspected of Criminal Violation (If more than one, use continuation sheet)

a. Name _____
First MI Last
Address _____
Street City State ZIP Code
Date of Birth _____ **Social Security No. (if known)** _____
Month Day Year

Name of Financial Institution _____

b. Relationship to the financial institution (check all applicable blocks)

- Officer Employee Broker Shareholder
 Director Agent Borrower Other (specify) _____

c. Is person still affiliated with the financial institution Yes No

If no, terminated resigned Date _____
Month Day Year

Describe Circumstances of Separation (if necessary, use continuation sheet) _____

d. Prior or related referrals Yes No If yes, please identify briefly by name and date.

e. Is person affiliated with any other financial institution Yes No
 or business enterprise. Yes No If yes to either or both, please identify.

7. **Explanation/Description of Suspected Violation.** (Give a brief summary of the suspected violation, explaining what is unusual or irregular about the transaction.) (if necessary, use continuation sheet)

8. **Has there been a confession?** Yes No If so, by whom? _____

9. **Offer of Assistance.** The individuals listed below are/will be authorized to discuss this referral with FBI and Department of Justice officials and to assist in locating or explaining any documents pertinent to this referral, provided that contact is first made with

Name _____ Position _____

Telephone _____

Name _____ Telephone _____

Name _____ Telephone _____

Name _____ Telephone _____

10. **Form Prepared by** _____

Position _____

Agency/Institution _____

Telephone _____ Date _____

Complete the remaining questions if suspected criminal activity involves probable loss (before reimbursement or recovery) of \$10,000 or greater and in all cases, regardless of amount, involving an executive officer, director, principal shareholder of the institution within the meaning of Regulation O of the Board of Governors.

11. Give a Chronological and Complete Account of the Suspected Violation. (if necessary, use continuation sheet)

- Relate key events to documents and attach copies of those documents.
- Explain who benefited, financially or otherwise, from the transaction, how much, and how.
- Furnish any explanation of the transaction provided by the suspect and indicate to whom and when it was given.
- Furnish any explanation of the transaction provided by any other person.
- Indicate where the suspected violation took place (e.g., main office, branch, other).
- Recommend any further investigation that might assist law enforcement in fully examining the potential violation.

12. Indicate Whether the Suspected Violation Appears to Be an Isolated Incident or Whether It Relates to Other Transactions. (Explain)

Name of Financial Institution _____

13. **Exclusion of Information from the Referral.** Has any pertinent information been excluded from this referral as a result of any legal or other restraint? Yes No

If so, why? _____

Have the excluded information or documents been segregated for later retrieval? Yes No

14. **Witnesses.** List any witness who might have information about the suspected violation and describe their position or employment. Indicate if they have been interviewed. (if necessary, use continuation sheet)

	Name	Position	Address	Telephone	Interviewed		
					Yes	No	
1.	_____	_____	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
2.	_____	_____	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
3.	_____	_____	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
4.	_____	_____	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
5.	_____	_____	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

15. **Discovery and Reporting**

a. Who discovered the suspected violation and when?

b. Has the suspected violation been reported to the Board of Directors? Yes No By whom and when?

c. Has the Board of Directors taken action? Yes No If so, what and when?

d. Has the suspected violation previously been reported to federal or local law enforcement or to any federal or state supervisory agency? Yes No If so, by whom, to whom, and when?

16. **Loss**

a. Amount of loss known \$ _____

b. Restitution by _____
 In the amount of \$ _____

c. Name of Applicable Surety Bond Company _____

d. Amount of Bond \$ _____

e. Amount of deductible \$ _____

f. Was claim filed? Yes No _____

g. Settlement by Surety company to date \$ _____

h. Total restitution and settlement to date \$ _____

i. Net loss (after subtracting any amounts paid in the form of restitution or settlement) \$ _____

j. Is additional loss suspected? Yes No (If yes, explain)

k. Has the suspected violation had a material impact on or otherwise affected the financial soundness of the institution? Yes No (If yes, explain)

Name of Financial Institution _____

Continuation Sheet

Item No.	Remarks

Criminal Statutes

- 18 U.S.C. 2 "To aid, abet, counsel, command, induce or procure" the commission of federal offense.
- 18 U.S.C. 201 Bribery of public officials, including elected representatives, jurors and employees of any department or agency of the federal government, and witnesses in official proceedings; e.g., anyone who gives, offers or promises anything of value to a public official or a witness with the intent to influence that person's official functions.
- 18 U.S.C. 215 Kickbacks, bribes. Makes it unlawful for any officer, director, employee, agent or attorney to solicit, accept or give anything of value in connection with any transaction or business of any financial institution.
- 18 U.S.C. 371 Conspiracy of two or more persons to either commit a federal offense or to defraud the United States (or any agency of the U.S.).
- 18 U.S.C. 656 Theft, embezzlement or misapplication of bank funds, willfully, by an officer, director, agent or employee of a bank, with intent to injure or defraud the bank. Can infer intent to injure from the fact of injury or from acts knowingly done in reckless disregard for the interests of the bank.
- 18 U.S.C. 709 False advertising or misuse of words "National," "Federal Reserve," "Deposit Insurance," etc., to convey impression of federal agency affiliation.
- 18 U.S.C. 1001 General false statements statute—knowingly and willfully falsifying or concealing a material fact or making a false statement or making or using false writing knowing it to be false.
- 18 U.S.C. 1005 False entries and reports or statements, including material omissions, with intent to injure or defraud the bank, the Board of Governors (or OCC or FDIC), bank examiners or other individuals or companies.
- 18 U.S.C. 1014 False statement (oral or written) e.g., loan application, made knowingly for the purpose of influencing any bank whose deposits are federally insured, upon any application, purchase agreement, commitment, loan (or any change or extension of same) including willfully overvaluing land, property or security.
- 18 U.S.C. 1029 Credit Card fraud—knowingly and with intent to defraud, produce, use or traffic in counterfeit access devices.
- 18 U.S.C. 1030 Computer fraud—knowingly accessing a computer without authorization, or using it for unauthorized purposes, including obtaining information contained in records of financial institutions.
- 18 U.S.C. 1341 Mail fraud—scheme or artifice to defraud that makes use of the Postal Service.
- 18 U.S.C. 1343 Wire fraud—scheme or artifice to defraud using transmission by wire, radio or TV for the purpose of carrying out the scheme.
- 18 U.S.C. 1344 Bank fraud—scheme or artifice to defraud a federally insured institution or take money funds, credits, assets, securities or other property by misrepresentation.
- 18 U.S.C. 1621 Perjury/false statement made under oath (if false statement is not made under oath, individual may still be prosecuted under 18 U.S.C. 1001 or 1014).
- 18 U.S.C. 1951 Racketeer Influenced and Corrupt Organizations ("RICO") statutes. Investing in any enterprise affecting interstate commerce if the funds for the investment are derived from "a pattern of racketeering activity" (these activities are defined to include: murder, drug dealing, bribery, robbery, extortion, counterfeiting, mail fraud, wire fraud, embezzlement from pension funds, obstruction of criminal investigations, fraud in the sale of securities, etc.).
- 18 U.S.C. 1961
- 18 U.S.C. 2113 Bank robbery and incidental crimes, including taking of any property in excess of \$100 in value belonging to a bank, savings and loan or credit union, and receiving, possessing or disposing of same.
- 31 U.S.C. 5311 Currency Transactions/Bank Secrecy Act.
- 31 C.F.R. 103
- 15 U.S.C. 78dd Foreign Corrupt Practices Act of 1977. Payment of anything of value to any foreign official, foreign political party or candidate or "any other person where the American corporation knows or has reason to know the thing of value would be offered to a foreign official, foreign political party or candidate for foreign political office."
- 15 U.S.C. 78ff Criminal violations of securities laws.
- 15 U.S.C. 78x Criminal penalty provisions of securities laws.
- 12 U.S.C. 1847a Willful violations of the Bank Holding Company Act and the Board of Governors' regulations promulgated thereunder.

Instructions

Introduction: The purpose of this form is to provide a consistent means by which financial institutions can make referrals of known or suspected criminal activity perpetrated against the institutions whether by insiders or those outside the institution. The form will provide an effective means by which appropriate law enforcement and supervisory authorities will be made aware of known or suspected criminal activity. Institutions should use care in filling out this form and should ensure that it is filled out in as complete a manner as practicable under the circumstances.

THE FOLLOWING INSTRUCTIONS SHOULD BE REFERRED TO WHEN FILLING OUT THE ITEMS REFERENCED:

Item 1. State Member Banks use FDIC certificate number. Bank Holding Companies use F.R. Y-6, F.R. Y-9 BHC Number if available.

Item 2. As of end of most recent calendar quarter.

Item 3. Self-explanatory.

Item 4. Enter a check mark next to those descriptions in 4(a) which most generally describe the nature of the criminal activity. Use the list of criminal statues provided on page 6 as an aid to filling out item 4(b).

Item 5. Self-explanatory.

Item 6. Complete subparagraphs (a) through (g) on *each* individual suspected of criminal activity. This list should include primary suspects only. Individuals who may have knowledge of the suspected criminal activity, but who are not themselves suspected of being involved should be listed as witnesses under Item 14. Provide any additional details known with respect to prior referrals or affiliations.

Item 7. Provide a *brief* narrative description of the activity giving rise to the referral. For those filing the long version of this form, details will be provided later in the form. The purpose of this paragraph is to provide a *summary* description of the overall transaction.

Items 8 through 10. Self-explanatory.

Item 11. This section of the referral is critical. It should be as detailed as circumstances permit. The care with which this section is written may make the difference in whether or not the described conduct and its criminal nature are clearly understood. The discussion points listed in this section are not exhaustive. They should be covered, but to the extent an additional category should be addressed, it should be done here. Feel free to use attachments or to continue the description on a separate sheet. Include any suggestions for the interviewing of any witnesses, gathering of any documents or methods of investigation which might prove useful in following up on the referral (e.g. tracing of proceeds).

Items 12 through 16. Self-explanatory.

ADDITIONAL INSTRUCTIONS FOR EXAMINERS

Examiners should fill out this form whenever suspected criminal activity has been identified in an institution and either has not yet been reported by the institution or the referral made by the institution is deemed to be inadequate. It is important to note that the form should be filled out whenever criminal activity is suspected; examiners are not required to make any initial finding that such referrals would, if pursued, result in a criminal conviction. That judgment will be made by responsible law enforcement authorities. Any questions regarding whether or not any particular activity would constitute a crime for purposes of making a criminal referral should be resolved through communications with Board Staff.

The purpose of this referral is to provide appropriate law enforcement authorities with complete and accurate information relating to suspected criminal activity. All information requested within the body of the form should be supplied at the time of the referral unless such information is not known or can only be supplied at a later date by operation of the Right to Financial Privacy Act. In filling out of this form, examiners should avoid overly technical descriptions of transactions which might not be readily understood by law enforcement authorities unfamiliar with banking operations.

DISTRIBUTION: If made by Financial Institution

1. Retain one copy in the institution's files.
2. Send one copy to the Federal Reserve Bank in the District where your financial institution is located.
3. Send one copy to the nearest office of the FBI.
4. Send one copy to the nearest office of the U.S. Attorney.

DISTRIBUTION: If made by Federal Reserve Bank

1. Retain one copy in Reserve Bank file under name of the financial institution.
2. Send two copies to the Board of Governors, ATTENTION: Director, Division of Banking Supervision and Regulation.
3. Send one copy to the nearest office of the FBI.
4. Send one copy to the nearest office of the U.S. Attorney.