



February 22, 2021

VIA E-MAIL ONLY

Mr. Robert E. Feldman, Executive Secretary,
Attention: Comments,
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C., 20429
Docket No: RIN 3064-AF56
Comments@fdic.gov

**RE: Proposed Exemptions to Suspicious Activity Requirements:
Docket No: RIN 3064-AF56**

Dear Executive Secretary Feldman,

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing approximately 220 state and nationally chartered banks, savings and loan associations, and savings banks. WBA appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's (FDIC's) proposed rule that would modify the requirements for FDIC-supervised institutions to file Suspicious Activity Reports (SARs).

The proposed rule would amend FDIC's SAR regulation to allow FDIC to issue exemptions from SAR requirements. The proposed rule would also make it possible for FDIC to grant relief to FDIC-supervised institutions that develop innovative solutions to meet Bank Secrecy Act (BSA) requirements more efficiently and effectively. WBA appreciates the opportunity to comment on the proposal.

Discussion of the Proposed Rule

The proposed rule would add three paragraphs to 12 CFR 353.3(d) of FDIC Rules and Regulations to permit FDIC to exempt a supervised institution from the requirements, in full or in part, of 12 CFR 353.3.

Under the proposed rule, FDIC in evaluating an exemption request would determine whether the request is consistent with safe and sound banking and may consider other appropriate factors. Where an exemption request involves the filing of a SAR for potential money laundering, violations of the BSA, or other unusual activity covered by the Financial Crimes Enforcement Network's (FinCEN's) SAR regulation, FDIC would also seek a determination by FinCEN of whether the exemption request is consistent with the purposes of BSA, as applicable. When a request involves the SAR filing requirements of both FinCEN and FDIC, the proposed rule would require FDIC to seek FinCEN's concurrence.

In addition, the proposed rule provides that FDIC may grant an exemption for a specified time period. The supervised institution would then be able to rely on the exemption for a period of time as determined and communicated by FDIC. Under the proposed rule, FDIC could also

extend or revoke previously granted exemptions if circumstances change (consistent with BSA, and safety and soundness), or any imposed conditions.

If FDIC adopts the proposed rule and uses it to grant exemptions, the exemptions will not relieve FDIC-supervised institutions from the obligation to comply with FinCEN's SAR regulation, when applicable. To the extent an exemption request from an FDIC-supervised institution involves both FDIC and FinCEN SAR regulations, the FDIC-supervised institution must obtain an exemption from both agencies. FDIC has stated it expects to coordinate with FinCEN when handling parallel exemptions. However, FDIC's SAR regulation imposes additional requirements not included in FinCEN's SAR regulation. To the extent an exemption request is subject to a requirement imposed by FDIC's SAR regulation alone (and not a parallel FinCEN requirement), the proposed rule would allow FDIC to exempt a supervised institution from that requirement.

WBA appreciates the efforts of FDIC to create a process for FDIC-supervised institutions to obtain an exemption from SAR filings as a result of industry innovations. We offer the following suggestions to the proposal:

- FDIC need work together with the other prudential banking regulators and FinCEN to create one standard and one system for any institution to use when applying for an exemption. While technically the agencies have their own SAR regulations, the similarities greatly outweigh the one-off differences to justify separate application processes for each agency. A unified system for applications and agency determinations is necessary to create consistency for the industry regardless of charter.
- FDIC need work together with the other prudential banking regulators and FinCEN to create a single-filing process whereby an FDIC-supervised institution files solely with FDIC and any need for a FinCEN approval involving the same application be obtained by FDIC. The institution should not have to separately file with both FDIC and FinCEN. A single-filing process will help make the process efficient and less burdensome overall.
- FDIC need provide more information about the application itself, including what questions need be answered when applying, what factors FDIC is to consider in its determination, and what supplemental information need be provided with the application. Knowing upfront what need be answered and supplied will help make the process efficient and limit denials due to incomplete information.
- FDIC need provide a clear timeline for response to an application for exemption. WBA recommends a timeline not to exceed 45 days from the date of filing a completed application with FDIC.
- FDIC need create an appeal process so that an applicant may make changes and re-submit without having to completely re-apply for an exemption.
- FDIC must allow for FDIC-supervised institutions to also apply for an exemption due to a change in process that does not involve a change in technology as innovation can also come as a result of an updated process. The proposal should not limit the ability to obtain an exemption from SAR filing exclusively due a change in technology.



- FDIC need publish exemption decisions, so the industry is aware of FDIC's analysis and decision regarding a particular process or new technology.

Once again, WBA appreciates the opportunity to comment on FDIC's proposal.

Respectfully,



Rose Oswald Poels
President/CEO