

*For release on delivery*



STATEMENT

OF

THE HONORABLE JOANN M. JOHNSON  
CHAIRMAN  
NATIONAL CREDIT UNION ADMINISTRATION

“ENFORCEMENT OF THE BANK SECRECY ACT”

BEFORE THE

COMMITTEE  
ON

BANKING, HOUSING AND URBAN AFFAIRS  
UNITED STATES SENATE

JUNE 3, 2004

Chairman Shelby, Ranking Member Sarbanes and Members of the Committee, thank you for the invitation to testify before you today on behalf of the National Credit Union Administration (NCUA) on the enforcement of the Bank Secrecy Act (BSA).

Congress enacted the BSA to prevent credit unions and other financial institutions from being used as intermediaries for the transfer or deposit of money derived from criminal activity. NCUA is the regulatory authority that monitors federally-insured credit unions for compliance with the BSA.

## **SUPERVISION OF BSA COMPLIANCE IN THE CREDIT UNION INDUSTRY**

I am pleased to report to the Committee that historically federally-insured credit unions have a good record of compliance with the requirements of the BSA. Credit unions are also substantially in compliance with Sections 314 (Information Sharing) and 326 (Customer Identification Program) of the USA Patriot Act.

At the end of 2003, NCUA insured 9,399 credit unions. Almost fifty percent of federally-insured credit unions are small with assets less than ten million dollars. The smaller credit unions are less likely to have transactions that trigger the recordkeeping and recording requirements of the BSA. Additionally, approximately one-third of federal credit unions have a single common bond sponsor. Officials in smaller credit unions and single common bond credit unions often have a more intimate understanding of their members' transactions, which facilitates their compliance with the requirements of the BSA. Consequently, money laundering has not been a major problem for credit unions.

Nevertheless, much has changed since the terrorist attacks of September 11<sup>th</sup>. There is increased recognition that denying terrorists the ability to launder funds through the nation's financial system is an essential part of winning the war on terrorism. NCUA recognizes that as some federally-insured credit unions increase in asset size, offer more complex financial services, and expand their fields of membership, the possibility increases that they may be targeted by individuals or groups seeking to launder money. NCUA is mindful of our responsibility in this area.

The Federal Credit Union Act requires NCUA to assure BSA compliance in federally-insured credit unions. Our responsibility is to ensure that all federally-insured credit unions comply with applicable regulatory requirements and have effective programs in place to minimize the risk that they will be used to launder money. Federally-insured credit unions are required to have BSA compliance programs that effectively monitor their daily operations to assure compliance with all applicable rules and regulations.

To assure compliance, during each examination of a federally-insured credit union, examiners review BSA compliance programs. In fact, the risk-focused

examination program used by NCUA examiners and state credit union examiners directs that a review of compliance with the BSA be completed at every examination. (In the one state that does not use NCUA's risk-focused examination program, their examination program directs a comparable review of BSA compliance.) While this review is mandated by the Federal Credit Union Act, the design of the review and our extensive examiner education in this area result from NCUA's recognition of the important role of credit unions in preventing both money laundering and the financing of terrorism.

In addition to NCUA's risk-focused examination program, NCUA has jointly participated with our fellow regulators and the Financial Crimes Enforcement Network (FinCEN) on a number of regulations designed to implement provisions of the USA Patriot Act. Also, NCUA is represented on the Bank Secrecy Act Advisory Group and the National Bank Fraud Working Group. And, as a member of the Federal Financial Institutions Examination Council (FFIEC), we work with other regulators to develop effective examiner education in this area and provide guidance on best practices to financial institutions.

Among the 9,369 natural person credit unions, 3,593 are state-chartered federally-insured institutions and have a state supervisory authority as their primary regulator. In accordance with its responsibility under the Federal Credit Union Act, NCUA reviews BSA compliance each time it conducts a credit union examination. In state-chartered federally-insured credit unions where the state regulator conducts the examination, the state examiner reviews for BSA compliance. All examinations of federally-insured credit unions completed by a state regulator are reviewed by NCUA staff. It should be noted, however, that NCUA does not review examinations of privately-insured credit unions and does not have enforcement authority for BSA compliance in those credit unions.

During examinations, NCUA reviews the federally-insured credit union's operations to assure that policies and procedures are in place for credit union staff to file Suspicious Activity Reports (SARs) relating to money laundering. Consolidated reports received from FinCEN concerning SAR filings are provided to NCUA regional staff and examiners to assist in the examination process of the BSA.

In 2003, NCUA examined over 4,400 federal credit unions and jointly participated with the State regulators in over 600 examinations of state-chartered federally-insured credit unions. In addition, State regulators examined approximately 2,500 federally-insured credit unions. During those examinations, NCUA determined that there were 334 violations of the BSA. The violations were in 261 credit unions, representing 3.5 percent of credit unions examined. The most common violations fell into three categories - inadequate written policy (63%), inadequate customer identification program (8%), or inadequate currency transaction reporting procedures (7%).

When an examiner identifies a violation of the BSA, immediate resolution of the violation is sought. Of the 334 violations, credit union officials, working with an examiner, corrected or agreed to correct 99 percent of the violations during the on-site examination. Based on the severity of the violation, the examiner will establish supervision plans to ensure corrective action.

In instances when violations at a federally-insured credit union persist and/or are severe, NCUA has several options to initiate corrective action. They range from a letter from the NCUA regional director to formal administrative action including conservatorship. During 2003, NCUA regional directors issued one letter to a credit union that failed to have a BSA compliance program and entered into one Letter of Understanding and Agreement with credit union officials to ensure resolution of a multitude of problems from a failure to understand requirements of the BSA.

NCUA will use a formal administrative action when necessary to correct BSA violations. This has occurred twice in the recent past. NCUA placed one institution into conservatorship and issued a Cease and Desist Order against another. The first instance involved a credit union with multiple violations; NCUA placed the institution into conservatorship, removing the board of directors and senior operational management. NCUA then installed new management to correct deficiencies in internal controls and compliance programs. When systemic problems had been corrected, NCUA entered into a written agreement with the credit union committing the institution to a rigorous compliance program. Approximately ten months after imposing the conservatorship, NCUA returned the operations of the credit union to its members.

In the other instance, NCUA issued a Cease and Desist Order to correct deficiencies in a credit union's BSA program. NCUA required a review of past transactions using an acceptable independent auditor and a commitment to file appropriate documentation regarding discovered violations. The credit union also agreed to retain a BSA compliance expert to evaluate its BSA program and to provide weekly education to all its employees in this area.

## **NCUA INITIATIVES**

The enforcement of the BSA and its related rules has been and remains a priority for NCUA. NCUA has taken numerous initiatives to address BSA compliance in credit unions. These initiatives fall into the following general categories:

- Examination Program
- Examiner Education
- Compliance Examiners
- Credit Union Education

NCUA adopted a risk-focused examination program in 2002. Under this program, each credit union's examination is based on the examiner's analysis of risk for that particular institution. There are three mandatory procedures in the risk-focused examination program, one of which is the completion of the questionnaire on compliance with the BSA. The mandatory questionnaire was updated last year to incorporate recent provisions of the USA Patriot Act.

NCUA educated all federal examiners (approximately 600) for the implementation of the risk-focused examination and provided a specific session on BSA compliance. Additionally, BSA compliance is addressed in core training for all NCUA examiners. State examiners also attend NCUA compliance training sessions.

NCUA participates with the other FFIEC agencies in developing and delivering training in this area. We have worked with our fellow regulators to develop guidance for the industry in implementing new USA Patriot Act regulations.

The NCUA Examiner's Guide provides examiners with guidance in their review of a federally-insured credit union's compliance with the BSA. To ensure a field focus on compliance with the USA Patriot Act, an updated version of the Examiner's Guide and the BSA questionnaire incorporating recent regulatory changes was issued to staff.

In conjunction with the implementation of the risk-focused examination, NCUA has designated almost 30 compliance subject matter examiners. These examiners are called upon to assist in the examination of federally-insured credit unions that exhibit a more complex operation or higher risk in compliance areas. Intensive training on the BSA (including the USA Patriot Act) was conducted at NCUA's November 2003 Consumer Compliance Conference. Both federal and state examiners attended the class. In 2002, we also provided a day-long session on the BSA for the compliance examiners.

In addition to on-site reviews of BSA compliance during examinations, NCUA has issued several publications to educate federally-insured credit unions on BSA and USA Patriot Act compliance:

- October 2001 - Issued Letter to Credit Unions, 01-CU-18, NCUA Request Relating to Information Pertaining to the Terrorist Attacks
- April 2002 - Issued Regulatory Alert 02-RA-02, Patriot Act Regulation to Improve Information Sharing
- September 2002 – Issued Letter to Credit Unions 02-CU-14, Detection of Terrorist Financing

- March 2003 - Issued Regulatory Alert 03-RA-03, USA Patriot Act Section 314(a) Information Requests
- May 2003 - Issued Regulatory Alert 03-RA-07, Final Patriot Act Regulations on Customer (Member) Identification
- October 2003 - Issued Letter to Credit Unions 03-CU-16, Bank Secrecy Act Compliance
- February 2004 - Issued Regulatory Alert 04-RA-04, USA Patriot Act Section 326: FAQs for Customer Identification Program (CIP) and Enclosure

Currently, NCUA is finalizing an update to its Compliance Self-Assessment Guide designed to assist federally-insured credit unions in complying with regulations. With our focus on the BSA and USA Patriot Act, in October 2003 we issued this draft section to credit unions (attached). The guide highlights key requirements of the BSA and can be used as a quick reference tool for federally-insured credit unions.

Working with federally-insured credit unions to ensure accurate point of contact information for Section 314 requests of the USA Patriot Act, NCUA revised its quarterly Call Report to capture point of contact information in March 2003. All credit unions must provide point of contact information each quarter.

NCUA's website ([www.ncua.gov](http://www.ncua.gov)) is designed to provide easy access for federally-insured credit unions to obtain a SAR form along with information on the proper filing of the form. This facilitates the ability of a credit union to file prompt reports.

Looking forward, NCUA is committed to maintaining a dynamic examination program that will assure federally-insured credit unions have effective programs in place to minimize the risk of money laundering. NCUA will continue to provide guidance to federally-insured credit unions regarding compliance with the BSA.

## **CONCLUSION**

Again, thank you, Mr. Chairman, for the opportunity to appear before you today on behalf of NCUA to discuss BSA compliance in the credit union industry. I am pleased to respond to any questions the Committee may have or to be a source of any additional information you may require.