The COUNTER Act is Welcome Progress on BSA Reform

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Today, the House Financial Services Committee approved unanimously a bill (H.R. 2514 or the COUNTER Act) to modernize and reform the Bank Secrecy Act (BSA). CSBS applauds this effort to improve the Bank Secrecy Act’s effectiveness and to ensure the law can better and more efficiently achieve its purpose of combatting illicit finance.

The states are the single largest supervisor of institutions, both banks and non-banks, subject to BSA/AML requirements. As the primary regulator of 4,283 depository institutions and over 500 non-depository money services businesses, state regulators are often the first point of contact for financial services providers and law enforcement on issues that arise related to BSA compliance. In 2018, state-chartered banks filed 234,262 Suspicious Activity Reports (SARs). Over the same period, state-licensed money services businesses (MSBs) filed 873,203 SARs. Together, this amounts to more than half of the total number of SARs filed in 2018.

Earlier this week, CSBS sent a letter on the discussion draft of the COUNTER Act. A few key points from our letter and about the bill the Committee just approved:

- **AML/CFT Supervision.** CSBS supports the COUNTER Act’s significant emphasis on improving supervision related to anti-money laundering (AML) and the countering of the financing of terrorism (CFT). A thoughtful review of issues, including feedback loops, the value of BSA, and AML exam authority delegation should lead to improved processes and more effective supervision and enforcement.

- **Shared Compliance Resources.** CSBS supports the COUNTER Act’s endorsement of shared compliance resources. CSBS issued a White Paper in 2016 making the case for shared resources and we appreciate the bills’ support for this
commonsense solution for community banks and other smaller institutions.

- **Coordination and Information Sharing.** The COUNTER Act’s focus on better connecting the regulatory players in the BSA space is a key reform. FinCEN and the federal banking agencies are working to reform the approach to AML supervision. In the spirit of the COUNTER Act’s emphasis on regulatory coordination and collaboration, we look forward to engaging with Treasury and the federal banking agencies. And, when it comes to the COUNTER Act’s proposed Innovation Labs and the Innovation Council, we would like to work with the Committee to ensure that state regulators are involved.

- **De-Risking.** We strongly support the COUNTER Act’s inclusion of a study and strategy on de-risking. CSBS and its members have long been concerned about de-risking and the challenges that licensed money services companies and other businesses have faced in obtaining and maintaining banking relationships. Such wholesale treatment runs counter to our expectation as bank regulators that banks can and should assess the risks of customers on a case-by-case basis.

We look forward to working with the Committee to advance this important proposal.

*Back to Top*