



Department of the Treasury Financial Crimes Enforcement Network

Advisory

FIN-2011-A010

Issued: July 8, 2011

Subject: Guidance to Financial Institutions on Recent Events in Syria

The Financial Crimes Enforcement Network (FinCEN) is issuing this Advisory to U.S. financial institutions to take reasonable risk-based steps with respect to the potential increased movement of assets that may be related to the current unrest in Syria.¹ During this period of uncertainty, FinCEN is issuing this Advisory to remind U.S. financial institutions of their requirement to apply enhanced scrutiny for private banking accounts held by or on behalf of senior foreign political figures² and to monitor transactions that could potentially represent misappropriated or diverted state assets, proceeds of bribery or other illegal payments, or other public corruption proceeds.

Financial institutions should be aware of the possible impact the events in Syria may have on patterns of financial activity when assessing risks related to particular customers and transactions. For example, as a result of the unrest in Syria, information available to the U.S. Government indicates Rami Makhluf, a cousin to Syrian President Bashar Assad and prominent Syrian businessman, is taking steps to protect his money, properties and companies. Rami Makhluf was designated by the Department of the Treasury's Office of Foreign Assets Control (OFAC) on February 21, 2008 for improperly benefiting from and aiding the public corruption of Syrian regime officials.³ On May 18, 2011, OFAC also designated three companies and one individual for their links to Makhluf: Cham Holding and its Chairman Nabil Rafik al Kuzbari, Bena Properties, and Al Mashreq Investment Fund.⁴ Further, on July 10, 2008, OFAC identified Syriatel and Ramak, two

¹ For information from the United States Department of State regarding developments in Syria, please see http://www.travel.state.gov/travel/cis_pa_tw/cis/cis_1035.html.

² "Senior foreign political figure" means a current or former senior official of a foreign government or of a major foreign political party; a senior executive of a foreign government-owned commercial enterprise; a corporation, business, or other entity that has been formed by, or for the benefit of, any such individual; the immediate family members of any such individual; and a person who is widely and publicly known (or is actually known by the relevant covered financial institution) to be a close associate of such individual. For the purposes of this definition, "senior official or executive" means an individual with substantial authority over policy, operations, or the use of government-owned resources and "immediate family member" means spouses, parents, siblings, children and a spouse's parents and siblings. See 31 CFR 1010.620(c) and 31 CFR 1010.605(p).

³ Office of Foreign Assets Control, "Changes to List of Specially Designated Nationals and Blocked Persons Since January 1, 2008." (February 21, 2008). <http://www.treasury.gov/resource-center/sanctions/SDN-List/Documents/sdnew08.pdf>, and see generally, HP-834, "Rami Makhluf Designated for Benefiting from Syrian Corruption" (February 21, 2008). <http://www.treasury.gov/press-center/press-releases/Pages/hp834.aspx>.

⁴ Office of Foreign Assets Control, "Changes to List of Specially Designated Nationals and Blocked Persons Since January 1, 2011." (May 18, 2011). <http://www.treasury.gov/ofac/downloads/t11sdnew.pdf>.

companies in which Makhluḥ owns, directly or indirectly, a 50 percent or greater interest.⁵

The U.S. Government has reason to believe that Rami Makhluḥ is disassociating himself (in name only) from his businesses and looking to safely store his wealth outside of Syria. Financial institutions should be aware of risks associated with conducting transactions linked to Makhluḥ, as well as the requirements for enhanced scrutiny for private banking accounts held by or on behalf of senior foreign political figures under the Bank Secrecy Act.⁶

Guidance

If a financial institution knows, suspects, or has reason to suspect that a transaction relating to senior foreign political figures involves funds derived from illicit activity, if the transaction appears to have no business or lawful purpose, or if a customer has engaged in activities indicative of money laundering, terrorist financing, or any other violation of federal law or regulation, the financial institution must file a Suspicious Activity Report (SAR).⁷ Additionally, covered financial institutions are reminded of the regulations implementing Section 312 of the USA PATRIOT Act, (31 U.S.C. 5318(i)), which require a written due diligence program for private banking accounts held for non-U.S. persons designed to detect and report any known or suspected money laundering or other suspicious activity.⁸ In instances where senior foreign political figures maintain private banking accounts at a covered institution, those financial institutions are required to apply enhanced scrutiny of such accounts to detect and report transactions that may involve the proceeds of foreign corruption.⁹

In April 2008, FinCEN issued Guidance to assist financial institutions on reporting suspicious activity regarding proceeds of foreign corruption. That Guidance also highlights potential indicators of transactions that may be related to proceeds of foreign corruption.¹⁰ In May 2011, FinCEN released a SAR Activity Review – Trends Tips and Issues specifically on foreign corruption, which highlights general regulatory requirements, general due diligence procedures, and frequently asked questions related to senior foreign political figures and corruption.¹¹ Financial institutions may find the Guidance document and SAR Activity Review useful in assisting with suspicious activity monitoring and due diligence requirements related to senior foreign political figures.

and *see generally*, TG-1181, “Administration Takes Additional Steps to Hold the Government of Syria Accountable for Violent Repression Against the Syrian People” (May 18, 2011). <http://www.treasury.gov/press-center/press-releases/Pages/tg1181.aspx>.

⁵ Office of Foreign Assets Control, “Changes to List of Specially Designated Nationals and Blocked Persons Since January 1, 2008.” (July 10, 2008). <http://www.treasury.gov/press-center/press-releases/Pages/hp1075.aspx>, and *see generally*, HP-1075, “Treasury Targets Rami Makhluḥ’s Companies” (July 10, 2008). <http://www.treasury.gov/press-center/press-releases/Pages/hp1075.aspx>.

⁶ *See* 31 CFR 1010.620(c) and 31 CFR 1010.605(p).

⁷ *See, e.g.*, 31 CFR § 1020.320.

⁸ *See, generally*, 31 CFR 1010.620.

⁹ 31 CFR 1010.620(c).

¹⁰ *See* “Guidance to Financial Institutions on Filing Suspicious Activity Reports Regarding the Proceeds of Foreign Corruption,” FIN-2008-G005 (April 17, 2008). http://www.fincen.gov/statutes_regs/guidance/html/fin-2008-g005.html.

¹¹ The SAR Activity Review – Trends Tips & Issues, Issue 19 (May 2011) [Published under the auspices of the BSA Advisory Group], http://www.fincen.gov/news_room/rp/files/sar_tti_19.pdf.

Questions or comments regarding the contents of this advisory should be addressed to the FinCEN Regulatory Helpline at 800-949-2732.