



## Department of the Treasury Financial Crimes Enforcement Network

### Advisory

**FIN-2011-A013**

**Issued: August 10, 2011**

**Subject: Guidance to Financial Institutions on the Commercial Bank of Syria**

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In coordination with Wednesday's designation of the Commercial Bank of Syria for its provision of financial services to entities previously sanctioned by the United States for their proliferation activities, the Financial Crimes Enforcement Network (FinCEN) is issuing this Advisory today to alert U.S. financial institutions of information on the Commercial Bank of Syria's continued involvement in illicit financial activities.

On March 15, 2006, FinCEN issued a Final Rule under Section 311 of the USA PATRIOT Act prohibiting U.S. financial institutions from opening or maintaining a correspondent account in the United States for or on behalf of the Commercial Bank of Syria, directly or indirectly, and requiring all covered financial institutions to review their account records to ensure they do not maintain accounts directly for, or on behalf of, the Commercial Bank of Syria.<sup>1</sup> This Final Rule followed a Notice of Proposed Rulemaking (NPRM) and Finding on May 18, 2004, which determined that the Commercial Bank of Syria was (1) used by persons associated with terrorist organizations; and (2) used as a conduit for the laundering of proceeds generated from the illicit sale of Iraqi oil.<sup>2</sup>

Since this Final Rule was issued, the Commercial Bank of Syria has engaged in transactions with multiple proliferation-related entities, including several named in U.S., EU, and UN sanctions, which led to today's designation of the Commercial Bank of Syria pursuant to U.S. counter-proliferation sanctions authorities. The Commercial Bank of Syria is believed to have been used by a provider of lethal support to Al -Qa'ida in Iraq.

### Guidance

U.S. financial institutions are reminded that the Final Rule mentioned above imposed the fifth special measure under Section 311, prohibiting U.S. financial institutions from

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<sup>1</sup> See generally 71 FR 13260, "Financial Crimes Enforcement Network: Amendment to the Bank Secrecy Act Regulations – Imposition of Special Measure Against Commercial Bank of Syria, Including Its Subsidiary, Syrian Lebanese Commercial Bank, as a Financial Institution of Primary Money Laundering Concern," [Final Rule] (March 15, 2006).

[http://www.fincen.gov/statutes\\_regs/patriot/pdf/noticeoffinalrule03152006.pdf](http://www.fincen.gov/statutes_regs/patriot/pdf/noticeoffinalrule03152006.pdf).

<sup>2</sup> See generally, 69 FR 28098, "Financial Crimes Enforcement Network: Amendment to the Bank Secrecy Act Regulations – Imposition of Special Measure Against Commercial Bank of Syria, Including Its Subsidiary, Syrian Lebanese Commercial Bank, as a Financial Institution of Primary Money Laundering Concern," [Notice of Proposed Rulemaking] (May 18, 2004).

[http://www.fincen.gov/statutes\\_regs/patriot/pdf/311syrianprm.pdf](http://www.fincen.gov/statutes_regs/patriot/pdf/311syrianprm.pdf).

maintaining correspondent accounts for the Commercial Bank of Syria. While the Commercial Bank of Syria no longer maintains direct correspondent relationships with U.S. banks, financial institutions are reminded of their continuing obligation to exercise due diligence with respect to their correspondent accounts that is reasonably designed to guard against indirect use of those accounts by the Commercial Bank of Syria.<sup>3</sup> Contrary to what might be expected, financial institutions are advised that the Commercial Bank of Syria continues to maintain U.S. dollar-denominated accounts at various banks throughout Europe, the Middle East, and Asia.

Financial institutions are advised that the Commercial Bank of Syria may attempt to circumvent the prohibitions in the special measure through “nested account” activity. Such activity generally involves a financial institution gaining anonymous access to a financial system by operating through a domestic correspondent account belonging to a third party foreign financial institution rather than maintaining its own correspondent account. Examples of potentially suspicious activity related to nested accounts may include, but are not limited to:

- Transactions to and from jurisdictions in which the foreign financial institution has no known business activities or interests.
- Transactions in which the total volume and frequency exceeds expected activity for the foreign financial institution, considering its customer base or asset size.

In addition to the requirements under the Final Rule discussed above, FinCEN reminds U.S. financial institutions of their requirement under the BSA to report suspicious transactions conducted or attempted by, at, or through the U.S. financial institution.<sup>4</sup> A transaction is suspicious if it (a) involves funds derived from illegal activity, (b) is indicative of structuring, money laundering, terrorist financing, or any other violation of federal law or regulation, or (c) has no business or apparent lawful purpose, or is not the sort in which the customer is normally expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts.<sup>5</sup>

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

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<sup>3</sup> 31 CFR 1010.653(b)(2).

<sup>4</sup> A transaction is suspicious if it falls within one of the categories enumerated in our suspicious activity reporting (SAR) rules. A transaction requires reporting if the transaction satisfies the monetary threshold in our SAR rules, and the financial institution “knows, suspects, or has reason to suspect” that the transaction is suspicious. Financial institutions should note that our rules allow for the voluntary filing of SARs. *See, e.g.*, 31 CFR 1020.320.

<sup>5</sup> *Id.*