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Introduction

It's a pleasure to be here today with the Florida Bankers Association. When I last spoke in Florida earlier this year, I devoted my remarks entirely to the importance to FinCEN, as part of carrying out its mission of providing feedback to the financial industry, of the many ways government agencies every day use the information you provide. This is an important aspect of the partnership among the public and private sectors that Congress intended under the Bank Secrecy Act (BSA) to achieve our common goal of countering criminal abuse of the financial system. That speech, which is available on FinCEN's website, serves as a guide to further resources we have available.

I'd like to spend my time today focusing on a broad category of financial crimes that is of keen interest to all here today – fraud. In drilling down a bit more into some specific trends we've been noting in the fraud area, particularly as it relates to activity in Florida, I'll provide some observations about how institutions view their anti-money laundering programs in relation to their efforts to combat fraud. Each of these efforts can – and should – build upon and inform the other.

We know that no bank executive wants a fraudster in the bank, trying to profit at the expense of the bank or a customer – that's common sense. And we know that no reputable financial institution wants money laundering taking place within their business, not just because of the reputational risk, but because serving criminals is not part of a solid long-term business strategy. This is why Secretary Paulson has been noted for saying that those who run our nation's financial institutions feel strongly about protecting the integrity of the financial system and want no part of illegal activity.

FinCEN: More than Money Laundering

Financial institutions often associate FinCEN's mission exclusively with fighting money laundering and terrorist financing. In reality, the breadth of financial crimes, and therefore our mission, is much broader.

One example of this is clear from the resources financial institutions put into reporting to FinCEN suspicions of violations of law generally, as well as more specific crimes such as structuring. If you look at the statistics in the most recent SAR Activity Review, By the Numbers published in May 2008, you'll note that there are in fact slightly more non-money laundering suspicious activity reports (SARs) filed by depository institutions than there are BSA/structuring/money laundering-related SARs.

And while they are often viewed as separate criminal enterprises, acts of fraud and acts of money laundering are interconnected: the financial gain of the fraudulent activity ultimately needs to be integrated into the financial system. Therefore, money laundering is often a malignant and pernicious product of fraud. By fighting fraud, you are fighting money laundering. And in turn, by identifying money laundering, you could be alerting law enforcement to a criminal attempting to mingle the proceeds of fraudulent activity committed against innocent victims – some of whom may do business with your bank.

It is important to appreciate that the information your institution collects to comply with your anti-money laundering program requirements in many ways mirrors the information you would gather in any event for anti-fraud purposes. Therefore, the resources being spent on fraud detection and prevention within your institution can often be harnessed for anti-money laundering (AML) purposes, and vice versa.

Money Laundering vs. Fraud: Making the business case

In the case of fraud, financial institutions have a clear interest in expending significant resources to combat this crime taking place within their businesses. This obviously makes selling the business case for fighting fraud within your institution easier, because there is a tangible impact on your institution's bottom line.

FinCEN is in the middle of an ongoing outreach initiative with some of the nation's largest financial institutions in order to learn more about how their AML programs operate. As distinct from large gatherings like this today, we are holding discussions with individual institutions to hear candid views on the AML/CFT framework and how to improve it. This, in turn, will provide opportunities to promote efficiencies in the financial industry's reporting regimes while at the same time preserving the tremendously valuable information that you provide to law enforcement. This is just the first step in the enhanced outreach effort that I launched last year – once we have completed this initial round with the largest depository institutions, we will be identifying other industry segments, such as community banks or money services businesses, to conduct similar outreach.

Among the things we've learned is that the AML programs within many of the largest banks in this country are run separately from the bank's fraud detection departments and programs. Some of the institutions we've spoken with have also told us that they are challenged with "selling the business case" to fight money laundering within their institution. This is not to say the banks are not committed to fighting money laundering. Without question, we know first hand that these banks are active and engaged partners in the government's efforts to fight financial crime and terrorist financing. They are committing the resources in both time and money to do their part.

We understand that AML is sometimes viewed as purely a cost-center driven by regulatory requirements. A large part of this is due to the fact that the benefits of running an effective AML/CFT program accrue to the financial system as a whole and society at large. Money is spent by the institution for technology and personnel necessary to detect and report suspicious activity, but there is little for the bank to recover to make up for their expenditures. For the financial institution, the business case for fighting fraud is a much easier argument to make if every investigation aims at least in part to recover proceeds of fraud.

I want to emphasize that financial institutions can benefit by leveraging their fraud resources with their AML efforts and starting to take advantage of the significant efficiencies that I see being available through this leverage.

We know institutions are actively sharing information about fraud – for example, FBA's FraudNet provides a platform for the exchange of fraud-related information with other institutions and law enforcement. Our 314(b) program also allows for the sharing of information between institutions and we've received extremely positive feedback from financial institutions that participate. Promoting greater use of the 314(b) authority is an area where I promise you will hear more from FinCEN going forward.

Florida SAR Filings

Let me turn now from these fundamental points about how the financial industry looks at money laundering and fraud to provide observations on what is subsequently reported to FinCEN by way of the SAR filings in Florida. In 2007, 36,923 depository institution SARs were filed in Florida. Compared with other states, this puts Florida fourth in terms of greatest number of filings (behind the states of California, New York and Texas respectively). When we take population into account, Florida's rank is eighth in terms of SAR filings per capita.

While the SAR figures I've just mentioned are only for depository institution SARs, Florida consistently ranks among the top states in total SAR reporting volume across all financial institution types. In addition to Florida's #4 ranking for depository institution SARs, Florida is also ranked #4 for SARs filed by money services businesses in your state, 11th for SARs filed by the securities industry and 15th for SARs filed by casinos. These rankings imply to me that BSA-related suspicious activities are an issue of concern and focus in all financial sectors in the state. And the rankings imply that

Florida's financial institutions are attuned to what constitutes suspicious activity so that law enforcement can follow up.

How the BSA Data is Used in Florida

I've spoken a bit about what we are seeing in the BSA data from Florida in the aggregate. I'd now like to turn to how the data is being used by the federal, state, and local law enforcement and regulatory agencies within your state.

The information your institution files with FinCEN is made available to our federal, state and local law enforcement and regulatory partners through Memoranda of Understanding with each entity. These agreements articulate the manner in which the data can be used for criminal, tax, regulatory and counter terrorism investigations. FinCEN provides training to the authorized users of the BSA data; access is strictly controlled; and FinCEN conducts audits of the use of the data.

During my visit to Florida earlier this year, I had the opportunity to sign one such MOU with U.S. Attorney Alex Acosta from the Southern District of Florida. In doing so, we also provided his office with a BSA Filing Profile to give them a more complete picture of the SAR filings occurring within their district. The profile depicted geographical "hot spots" of SAR filing activity, some of which were easily explained by looking at the population centers of southern Florida, but other areas of increased filing activity had no obvious explanation, so from this profile, further investigations have been initiated.

It is these types of filing profiles from FinCEN that our law enforcement partners find helpful in allocating investigative resources to areas of increased activity. However, these profiles are not just done for law enforcement use. FinCEN compiles similar state filing profiles for each state banking regulator. Versions of these are available for public review in our SAR Activity Review-By the Numbers publication. I encourage those of you who have not yet seen the Florida report to review this information.

In addition to the U.S. Attorney's Office for the Southern District of Florida, there are currently 20 other federal, state and local law enforcement and regulatory agencies in Florida that are utilizing BSA information. Collectively within these 21 agencies, there are hundreds of active investigators, as well as those from the Internal Revenue Service. You can see by this interest alone how valuable the data has become to law enforcement at every level protecting the people of Florida.

Florida and Mortgage Fraud

Now, after providing you some background on aggregate numbers and law enforcement interest, I wish to get more specific as to what we do with the BSA reports we receive. As criminal activity evolves, we must adapt. And I believe some of FinCEN's ongoing work in the mortgage fraud area speaks to this point. In November 2006, FinCEN published its report on trends in the area of mortgage fraud based on analysis of Suspicious Activity Reports (SARs); a subsequent report was published in April 2008. FinCEN's reports in this area are based on information and suspicious activity provided by financial institutions subject to SAR reporting requirements. Illustrating the complementary relationship between money laundering and fraud, FinCEN also published two studies over the same periods about how proceeds of criminal activity can be laundered through purchases of commercial and residential real estate.

Specific to Florida, in 2006, 3,550 mortgage fraud SARs were filed where the subject of the SAR had a Florida address. Last year, that number jumped to 6,671, an 87% increase. In the first six months of this year, the number has climbed to 4,890. If this pace continues, more than 9,000 SARs could be filed this year where depository institutions identify subjects in Florida that they suspect are involved with mortgage loan fraud related activity.

On a hopeful note, our more recent data analysis indicated a 50 percent increase in the number of SARs that reported intercepting the suspected fraud **prior** to funding a mortgage. This indicates that the financial community is becoming increasingly adept at spotting and reporting suspicious activities that may indicate mortgage fraud and exemplifies how compliance with BSA regulations is consistent with a financial institution's commercial concerns. FinCEN has received positive reactions to its mortgage fraud reports as being useful to banks, as the banks have sought ways under more difficult market conditions to further limit credit losses, including those due to fraud.

It is unfortunate to note recent reports that indicate that by some measures Florida is home to more mortgage fraud then any other state in our country. In late August of this year, the Mortgage Asset Research Institution released a report[1] ranking Florida as the top mortgage fraud location for the first quarter of 2008. Specifically, the report indicated that Florida had the largest volume of mortgage fraud in the first three months of 2008, accounting for about 24 percent of the national total.[2]

However, the increase in Florida SAR filings in the mortgage fraud area reflects that your institutions are keenly aware of this ongoing problem, and demonstrates your commitment to helping law enforcement and regulatory authorities with investigations in this area. FinCEN has done a significant amount of work in the mortgage fraud area in order to provide the financial industry with information and trends that help in your identification and reporting of this activity. The SAR information provides us with

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[1] Mortgage Asset Research Institute, Quarterly Fraud Report, available at http://www.marisolutions.com/pdfs/mba/mortgage-fraud-report-2008Q1.pdf

[2] The MARI data is derived from a totally different data source using a different data tool for reporting and collection of mortgage fraud data ("MARI's Mortgage Industry Data Exchange (MIDEX®) database), which contains an aggregation of reported incidents of fraud and verified misrepresentations submitted by leading mortgage industry participants." The data in MIDEX may be submitted by mortgage industry participants who do not fall under the SAR reporting requirements.

especially useful data for strategic analysis purposes, while at the same time aids law enforcement with their investigative efforts.

For example, FinCEN recently received law enforcement feedback on a case in Florida where the subjects excessively overpriced homes and fraudulently sought mortgages. BSA records filed concurrently with the fraud highlight transactions associated with the illegal activity. The fraud included overstated incomes, non-existent bank accounts, and kickbacks worth hundreds of thousands of dollars. In one particular case, one house purportedly increased in value by $1 million in 14 months, during a declining market, resulting in a kickback of $650,000 to one of the subjects and $90,000 in commissions to the real estate broker. Not surprisingly, mortgage payments stopped a few months after the sale.

Fortunately, in this case, not all loan applications were approved, and several institutions in Florida filed SARs as the fraud was taking place. One bank noted that a borrower with a purported income of over $343,000 as an insurance executive was in reality a part-time cashier at a grocery store. Another borrower claimed he had income of $90,000 per year when in reality tax records showed he had a yearly income of only $36,000. Other borrowers grossly overstated bank account balances, or completely fabricated their existence. A SAR filed by another institution noted that layered transactions among the subjects may have facilitated the money laundering.

The SARs and Currency Transaction Reports (CTRs) filed in this case greatly aided investigators in the identification of accounts and individuals related to the scheme. The subjects have been indicted and arrested, and these defendants are now awaiting further judicial action. There are many more investigations related to mortgage fraud under review by Federal and state authorities. FinCEN will continue its efforts to support them both through aggregate analysis, to promote the most law enforcement results from SARs, and where possible, in supporting complex individual case investigations as resources permit.

The foregoing is but one example of a law enforcement investigation where BSA records played a vital role in identifying and investigating ongoing fraudulent activity and bringing the perpetrators to justice. In cases of fraud in particular, your astute reporting of this activity has a multiplying effect: you are helping the government get criminals off the streets; you are helping protect your own financial institution from financial losses as well as reputational risk; and you are protecting your customers from falling prey to this kind of criminal activity.

Medical Fraud

Medical fraud is another area in which we know Florida is actively engaged. Again, the information your institution files with FinCEN is playing a vital role in law enforcement efforts to combat the perpetration of this fraud. The BSA data is often instrumental in seizing assets and shutting down businesses that may be perpetrating the fraud. Some of the businesses may exist on paper only, and prosecution of the perpetrators is often difficult and time-consuming.

Even more encouraging, we're aware of specific instances of extensive cooperation between financial institutions in Florida and the investigating law enforcement agencies, facilitated through SARs, which has resulted in early detection of medical fraud and swift action to seize funds generated through the illegal activity.

When U.S. Attorney Alex Acosta spoke at the Florida International Bankers Association Anti-Money Laundering conference earlier this year, his remarks focused on his office's efforts to combat economic fraud within Florida. In addition to their efforts to fight mortgage loan fraud, his attorneys prosecuted $638 million in health care fraud last year, indicting 197 individuals in 120 cases. Mr. Acosta noted that SARs in particular have played a valuable role in helping his prosecutors identify fraudulent medical billings and payments in southern Florida, allowing his office to return $40 million to Medicare last year.

You may be aware that there is no box to check on the SAR form to indicate health care fraud. That flexibility is one of the strengths of the SAR process. Your trained staffs, armed with their banking instincts, are free to give us the narrative - to tell us the story of what they have seen and why they think it is suspicious. The term "to think out-of-the-box" is terribly overused, but here it is literally true.

In all of these cases, the deterrent effect can't be ignored. Successful prosecutions of fraud discourage others from committing these crimes. Your role in the identification of fraudulent activity occurring within your financial institutions is the cornerstone of our efforts to combat this activity, as well as the entire range of other financial crimes.

Conclusion

It is clear that the information your institutions file with FinCEN is being used on a number of fronts – strategically, to identify trends and patterns such as we've done at FinCEN with our mortgage fraud studies, and tactically as we support investigative efforts all over the country.

The same care and due diligence you want to use to detect and prevent fraud can help to detect and prevent money laundering and terrorist financing. Efforts to comply with BSA requirements are consistent with what is good for your business. These efforts, though they require significant resources, and though they are not easy, lead to results: protecting your banks, your customers, the financial system as a whole, and the nation's economy. Thank you for the continued partnership toward our common goals.

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