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FinCEN's 314(a) Fact Sheet

The Financial Crimes Enforcement Network (FinCEN) provides a unique service to law enforcement to help locate financial assets and recent transactions by subjects of criminal investigations.

This program is in furtherance of Section 314(a) of the USA PATRIOT Act of 2001 (P.L. 107-56), which requires the Secretary of the Treasury to adopt regulations to encourage regulatory and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in or reasonably suspected, based on credible evidence, of engaging in terrorist acts or money laundering activities. FinCEN established the 314a Program through the issuance of a rule (finalized in 2002 and, as amended, now at 31 CFR Part 1010.520), which requires certain financial institutions to search their records and identify if they have responsive information with respect to the particular investigative subject.

Overview

FinCEN's regulations under Section 314(a) enable federal, state, local, and foreign (European Union) law enforcement agencies, through FinCEN, to reach out to more than 37,000 points of contact at more than 16,000 financial institutions to locate accounts and transactions of persons that may be involved in terrorism or money laundering.

FinCEN receives requests from law enforcement and upon review, sends notifications to designated contacts within financial institutions across the country once every 2 weeks informing them new information has been made available via a secure Internet web site. The requests contain subject and business names, addresses, and as much identifying data as possible to assist the financial industry in searching their records. The financial institutions must query their records for data matches, including accounts maintained by the named subject during the preceding 12 months and transactions conducted within the last 6 months. Financial institutions have 2 weeks from the posting date of the request to respond with any positive matches. If the search does not uncover any matching of accounts or transactions, the financial institution is instructed not to reply to the 314(a) request.

The Process

Through an expedited communication system, FinCEN's 314(a) process enables an investigator to canvas the nation's financial institutions for potential lead information that might otherwise never be uncovered. This cooperative partnership between the financial community and law enforcement allows disparate bits of information to be identified, centralized and rapidly evaluated.

It is important to note, however, that Section 314(a) provides lead information only and is not a substitute for a subpoena or other legal process. To obtain documents from a financial institution that has reported a positive 314(a) subject match, a law enforcement agency must meet the legal standards that apply to the particular investigative tool that it chooses to use to obtain the documents.

To ensure that Section 314(a) requests are being used only for appropriate cases, FinCEN's Section 314(a) process requires law enforcement to provide assurances that the request has been subject to appropriate scrutiny at the agency level and that the matter under investigation satisfies FinCEN's standards for processing a formal Section 314(a) request. FinCEN requires all requesters to submit a form certifying that the investigation is based on credible evidence of terrorist financing or money laundering.

Criteria for Money Laundering Requests

Because money laundering encompasses such a wide range of underlying criminal activity, agencies must determine that a money laundering case is significant before submitting a 314(a) request to FinCEN. To ensure that this standard is met, FinCEN requires documentation showing the size or impact of the case, the seriousness of the underlying criminal activity, the importance of the case to a major agency program, and any other facts demonstrating its significance.

In addition, law enforcement must certify in cases involving money laundering that all traditional means of investigation have been exhausted. The support for the assertion that other investigative alternatives have been exhausted or are unavailable must be provided in the form submitted to FinCEN for review prior to the request being provided to financial institutions by FinCEN.

314(a) Statistics

To date, the 314 Program Office has processed 3,704 requests pertinent to the following significant criminal investigations:

Terrorism/Terrorist Financing – 586 cases
Money Laundering – 3,118 cases

Feedback from Law Enforcement

The 314(a) process has proven to be an effective tool in many law enforcement investigations. Results yield productive leads for both terrorist financing and money laundering cases and often lead to the identification of new accounts and transactions. These results enable law enforcement to efficiently direct its use of legal processes to promptly obtain critical evidence to help advance their investigations.

The following figures are averages derived from feedback FinCEN has received from law enforcement requesters who have utilized the 314(a) Program.

- 10 - New Accounts Identified per request
- 47 - New Transactions Identified per request
- 10 - Follow up initiatives taken by Law Enforcement with Financial Institutions per request

Based on the total feedback we have received using the current revised feedback reporting form, 95% of 314(a) requests have contributed to arrests or indictments.