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**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

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**John Augustine,**

*Director, Office of Infrastructure and Innovative Finance.*

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## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

#### Financial Crimes Enforcement Network; Withdrawal of Finding Regarding Banca Privada d'Andorra

**AGENCY:** Financial Crimes Enforcement Network ("FinCEN"), Treasury.

**ACTION:** Withdrawal of finding.

**SUMMARY:** This document withdraws FinCEN's finding that Banca Privada d'Andorra ("BPA") is a financial institution of primary money laundering concern, pursuant to Section 311 of the USA PATRIOT Act ("Section 311"), codified at 31 U.S.C. 5318A. Because of material subsequent developments that have mitigated the money laundering risks associated with BPA, FinCEN has determined that BPA is no longer a primary money laundering concern that warrants the implementation of a special measure under Section 311. Elsewhere in this issue of the **Federal Register**, FinCEN is publishing a withdrawal of the related notice of proposed rulemaking that would have imposed a special measure against BPA.

**DATES:** The finding is withdrawn as of March 4, 2016.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Resource Center at (800) 767-2825.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 ("the USA PATRIOT Act"). Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act ("BSA"), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314, 5316-5332, to promote the prevention, detection, and prosecution

of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

Section 311 of the USA PATRIOT Act ("Section 311") grants the Director of FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, foreign financial institution, class of transactions, or type of account is of "primary money laundering concern," to require domestic financial institutions and financial agencies to take certain "special measures" to address the primary money laundering concern. The special measures enumerated under Section 311 are prophylactic safeguards that defend the U.S. financial system from money laundering and terrorist financing. FinCEN may impose one or more of these special measures in order to protect the U.S. financial system from these threats. To that end, special measures one through four, codified at 31 U.S.C. 5318A(b)(1)-(b)(4), impose additional recordkeeping, information collection, and information reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C. 5318A(b)(5), allows the Director to prohibit or impose conditions on the opening or maintaining of correspondent or payable-through accounts by covered U.S. financial institutions.

##### II. The Finding and Notice of Proposed Rulemaking

On March 13, 2015, FinCEN provided notice in the **Federal Register** that it had found Banca Privada d'Andorra ("BPA"), a bank headquartered in Andorra, to be of primary money laundering concern.<sup>1</sup> Based on the finding, FinCEN also published on March 13, 2015 a notice of proposed rulemaking ("NPRM") proposing the imposition of the fifth special measure with respect to BPA, and invited public comment.<sup>2</sup> Specifically, FinCEN proposed to prohibit covered financial institutions from establishing, maintaining, administering, or managing in the United States any correspondent account for, or on behalf of, BPA. FinCEN also proposed to require a covered financial institution to apply special due diligence to all of its

<sup>1</sup> 80 FR 13464 (Mar. 13, 2015).

<sup>2</sup> 80 FR 13304 (Mar. 13, 2015) (RIN 1506-AB30). FinCEN publicly announced the finding and NPRM on March 10, 2015.

foreign correspondent accounts that is reasonably designed to guard against processing transactions involving BPA. Among other things, covered financial institutions would have been required to notify those foreign correspondent account holders that the covered financial institutions know or have reason to know provide services to BPA that such correspondents may not provide BPA with access to the correspondent account maintained at the covered financial institution.

##### III. Subsequent Developments

Significant developments regarding BPA have occurred since FinCEN announced its finding and related NPRM regarding BPA, as described below. As a result, BPA is no longer operating as a financial institution that poses a money laundering threat to the U.S. financial system.

On March 11, 2015, the Institut Nacional Andorrà de Finances ("INAF"), the Andorran regulator and supervisor of financial institutions, appointed two INAF representatives to oversee BPA's operations. On March 12, 2015, the INAF suspended the authority of BPA's board of directors, the chief executive officer and two other senior managers and appointed special administrators to assume full control of BPA. On March 13, 2015, Andorran law enforcement arrested BPA's chief executive officer in Andorra on suspicion of money laundering.

The next month, in April 2015, the Andorran parliament enacted a law regarding the restructuring and resolution of banks, which created a new government agency, Agència Estatal de Resolució d'Entitats Bancàries ("AREB"), for that purpose. On April 27, 2015, AREB took over control of BPA.<sup>3</sup> In June 2015, AREB approved a resolution plan for BPA, under which the bank's "good" and "bad" assets, liabilities, and clients would be separated. Under the resolution plan, the "good" assets, liabilities, and clients are to be transferred to a bridge bank, and the bridge bank sold.<sup>4</sup> In July 2015, AREB announced the creation of the bridge bank, named Vall Banc, to receive the transfer of BPA's legitimate assets, liabilities, and clients. Vall Banc is wholly-owned by AREB, is registered with the INAF, and is supervised by

<sup>3</sup> Press Release, AREB, *AREB Assumes the Tutelage of BPA*, April 27, 2015, ([http://areb.ad/images/areb/comunicats/27042015\\_AREB\\_ENG.pdf](http://areb.ad/images/areb/comunicats/27042015_AREB_ENG.pdf)).

<sup>4</sup> Press Release, AREB, *AREB Will Create a 'Good Bank' with Legitimate Assets and Liabilities Segregated from BPA*, June 15, 2015, ([http://areb.ad/images/areb/comunicats/15062015\\_AREB\\_ENG.pdf](http://areb.ad/images/areb/comunicats/15062015_AREB_ENG.pdf)).

Andorran banking supervisory authorities. Vall Banc will not employ the high-level BPA managers described in FinCEN's Notice of Finding. In addition, any other person who has been or may be identified as related to the issues described in the Notice of Finding will not be employed at Vall Banc.

After the good assets, liabilities, and clients are transferred from BPA to Vall Banc, BPA will remain under the control of AREB. FinCEN understands that BPA will not be reactivated as an operational financial institution at any point except to facilitate the finalization of the resolution process. AREB, in coordination with other authorities in Andorra, ultimately intends to liquidate BPA following the resolution of judicial proceedings in Andorra and other jurisdictions.

#### IV. Withdrawal of the Finding

Because of these subsequent developments, BPA no longer operates in a manner that poses a money laundering threat to the U.S. financial system. FinCEN has determined that the steps taken by the authorities in Andorra sufficiently protect the U.S. financial system from the money laundering risks previously associated with BPA. FinCEN therefore has determined that BPA no longer is a primary money laundering concern and will not impose any special measures under Section 311 with respect to BPA.

For these reasons, FinCEN hereby withdraws its finding that BPA is of primary money laundering concern published on March 13, 2015, and announced on March 10, 2015.

#### Jamal El-Hindi,

*Deputy Director, Financial Crimes Enforcement Network.*

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## DEPARTMENT OF THE TREASURY

### Study on the Overall Effectiveness of the Terrorism Risk Insurance Program

**AGENCY:** Departmental Offices, U.S. Department of the Treasury.

**ACTION:** Request for data and information.

**SUMMARY:** Section 111 of the Terrorism Risk Insurance Program Reauthorization Act of 2015 (Reauthorization Act) requires the Secretary of the Treasury (Secretary) to submit a report to the Congress addressing the overall effectiveness of the Terrorism Risk Insurance Program (Program) and trends the Secretary has observed within the

Program. In order to assist the Secretary with the required report, Treasury requests that insurers submit certain insurance data and information regarding their participation in the Program.

**DATES:** Data must be submitted not later than April 30, 2016.

**ADDRESSES:** Participating insurers may submit the requested data and information after registration at a Web portal that has been established for this data collection. A link to the Web site where participating insurers can commence the registration process can be found at <https://www.treasury.gov/resource-center/fin-mkts/Pages/program.aspx>.

#### FOR FURTHER INFORMATION CONTACT:

Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, at (202) 622-2922 (this is not a toll-free number), or Kevin Meehan, Policy Advisor, Federal Insurance Office, 202-622-7009 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 111 directs the Secretary, beginning in calendar year 2016, to “require insurers participating in the Program to submit to the Secretary such information regarding insurance coverage for terrorism losses of such insurers as the Secretary considers appropriate to analyze the effectiveness of the Program[.]” This information and data includes information regarding: (1) Lines of insurance with exposure to such losses; (2) premiums earned on such coverage; (3) geographical location of exposures; (4) pricing of such coverage; (5) the take-up rate for such coverage; (6) the amount of private reinsurance for acts of terrorism purchased; and (7) such other matters as the Secretary considers appropriate. Treasury plans to issue a Notice of Proposed Rulemaking proposing rules that expand upon this requirement for the submission of data by participating insurers in the near future.

Section 111 also requires the Secretary to “submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate” that includes: (1) An analysis of the overall effectiveness of the Program; (2) an evaluation of any changes or trends in

the data collected by the Secretary; (3) an evaluation of whether any aspects of the Program have the effect of discouraging or impeding insurers from providing commercial property casualty insurance coverage or coverage for acts of terrorism; (4) an evaluation of the impact of the Program on workers' compensation insurers; and (5) in the case of the data collected by the Secretary regarding premiums earned on insurance coverage for terrorism losses, an estimate of the total amount earned by insurers since January 1, 2003. The initial report under this requirement is to be submitted not later than June 30, 2016.

##### II. Solicitation for Data

Treasury must start collecting data for the initial report required under section 111 before Treasury is able to review comments on proposed regulations concerning data collection, including whether it has properly estimated the level of burden that this collection imposes. Based on interaction with stakeholders, Treasury anticipates that most participating insurers will be able to respond to this solicitation with all of the requested data in that the data requested, and the form in which the data is requested, conforms to industry's current practice. In order to avoid inadvertently imposing an unanticipated level of burden on participating insurers without due consideration, Treasury is requesting, and not requiring, that participating insurers submit the data enumerated in the section 111 data collection authorized under this emergency approval. Making this collection voluntary also identifies to all participating insurers the types of information that Treasury will likely seek in future collections under section 111 and provides time to the extent necessary for insurers to make any adjustments to ease the burden of compliance with such collections.

Treasury, through an insurance statistical aggregator, has established the web portal identified above, through which insurers will be able to submit the requested data. All information submitted via the web portal is subject to the confidentiality and data protection provisions of section 111 as well as to section 552 of title 5, United States Code, including any exceptions thereunder. In accordance with the Paperwork Reduction Act, (44 U.S.C 3501 *et seq.*), the information collected through the web portal has been approved by the Office of Management and Budget (OMB) under control number 1505-0253. Treasury does not anticipate further requests for