

FinCEN Launches New Program to Strengthen Public-Private Information Sharing

On December 4, 2017, the United States Department of the Treasury's Financial Crime Enforcement Network ("FinCEN") launched the FinCEN Exchange program to enhance information sharing with financial institutions. Under this newly enacted program, FinCEN will arrange for regular briefings between law enforcement and financial institutions to help combat the growing threat of financial crimes. In announcing this program, Sigal P. Mandelker, the Treasury Under Secretary for Terrorism and Financial Intelligence urged that "strong public-private partnerships and two-way information sharing is a crucial component of our efforts to combat the sophisticated money laundering methods and evolving threats we face today."

Information Sharing

One of the biggest problems facing financial institutions and law enforcement today is the susceptibility of the financial institutions' information systems and the potential for illegal access by criminal actors. While financial institutions have developed their own internal mechanisms to test the vulnerabilities present in these information systems, thus gathering substantial knowledge about potential and actual threats, law enforcement has extensive experience in targeting, tracking and apprehending financial criminals. Thus, FinCEN determined that it is increasingly imperative that each party shares its individual knowledge with the other in order to help prevent and combat future crimes, since "foremost on all of our minds is protecting the country and safeguarding the international financial system from illicit actors." Under Secretary, Mandelker reiterated the importance for this collaboration when she said, "law enforcement relies on the financial industry to report important data to fight financial crimes through mechanisms such as Suspicious Activity Reports ("SARs") and Currency Transaction Reports ("CTRs"). The government, in turn, provides feedback to the private sector, including through FinCEN advisories, SAR statistics, briefings and other forms of information to guide and encourage industry efforts."

FinCEN Exchange Program

Prior to the launch of the FinCEN Exchange program, FinCEN had convened more than a dozen special briefings in five cities involving over 40 financial institutions and multiple law enforcement agencies. The awareness created by these briefings and the information provided as a result of them by financial institutions through SARs has helped law enforcement agencies map out and target weapons proliferators, sophisticated global and trade-based money laundering operations, human trafficking and smuggling rings and corruption, among other illicit actors. The briefings also proved useful to the financial institutions, helping them focus on specific priorities and to better identify risks. The impact and successful results of these periodic briefings are what led FinCEN to

develop the FinCEN Exchange program, which is designed to expand its information sharing program within the private and public sector. FinCEN Exchange will build on the success of these efforts by convening more regularly scheduled and as-needed operational briefings across the nation among law enforcement, FinCEN, and financial institutions to exchange information about priority threats to finance and national security.

Participation in the FinCEN Exchange Program

Participation in the FinCEN Exchange program is strictly voluntary for financial institutions and the program does not introduce any new regulatory requirements. FinCEN will invite financial institutions to participate in these programs, based on whether or not they possess information relevant to a particular topic. Overall, FinCEN encourages financial institutions to voluntarily share, as appropriate, information with other FinCEN participants as well as other financial institutions or associations of financial institutions to help meet the objectives of the program pursuant to Section 314(b) of the USA PATRIOT Act. After receiving information at a FinCEN Exchange operational briefing, financial institutions should be better equipped to incorporate responsive information into SARs. Under Secretary Mandelker summed up the FinCEN Exchange program as follows, "...[W]e are actively engaged with financial institutions and businesses in FinTech and RegTech sectors as we explore ways to work more closely with financial institutions, in particular, to foster innovation and leverage financial and regulatory technology. We are committed to a long-term and collaborative approach to combat financial crime and root out illicit actors. These efforts are so much more effective when we work as partners."

Updated Bank Secrecy Act FAQs

On a separate but related note, in addition to launching the FinCEN Exchange program, FinCEN has also recently updated the FAQ section of its website regarding questions pertaining to the Bank Secrecy Act ("BSA"). These updates remove several outdated questions, update references to the Code of Federal Regulations and modify the answer to question 16 regarding how to address transactions where a government official needs to conduct a large currency transaction. The newly updated FAQs related to BSA can be found [here](#).

More Information

The Press Release for the FinCEN Exchange program can be found [here](#). The speech by the Treasury Under Secretary for Terrorism and Financial Intelligence regarding the program's enactment can be found [here](#).

Please note that this advisory is a general overview of the enactment of the FinCEN Exchange Program and is not intended as a comprehensive explanation of all aspects of the program or as formal legal advice. If you have any questions regarding the FinCEN Exchange program or other related information sharing issues in general, please feel free to contact Kevin Patterson at 516-296-9196 or via email at kpatterson@cullenanddykman.com, Joseph D. Simon at 516-357-3710 or via email at jsimon@cullenanddykman.com, or Jeffrey Fowler at 516-296-9134 or via email at jfowler@cullenanddykman.com.

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