



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

DIVISION OF BANKING
SUPERVISION AND REGULATION

SR 02-6
March 14, 2002

**TO THE OFFICER IN CHARGE OF SUPERVISION AT EACH FEDERAL
RESERVE BANK AND TO EACH BANKING ORGANIZATION
SUPERVISED BY THE FEDERAL RESERVE**

**SUBJECT: Information Sharing Pursuant to Section 314(b) of the USA
Patriot Act**

This SR letter describes a new, immediately effective regulation concerning the sharing of information about terrorist financing and money laundering among financial institutions that was issued by the U.S. Department of the Treasury, through its Financial Crimes Enforcement Network (FinCEN). The FinCEN rule was issued pursuant to section 314(b) of the USA Patriot Act on March 4, 2001. All banking organizations supervised by the Federal Reserve should obtain a copy of FinCEN's new regulation and take whatever steps are necessary to ensure that the appropriate staff learns about its provisions.

Section 314(b) of the USA Patriot Act generally permits information sharing among financial institutions for the purpose of identifying and reporting activities that involve terrorist acts or money laundering. The statute requires that notice be provided to the Treasury Department before any information is shared, and FinCEN's rule requires that financial institutions provide the required statutory notice by filing a certification form. The regulation, which is codified at 31 CFR 103.110, is effective immediately and may be found at www.treas.gov/press/releases/po1044.htm.

FinCEN is encouraging banks and other financial institutions to file the certification form electronically by accessing the FinCEN website at www.treas.gov/fincen. The FinCEN rule states that if an institution does not have Internet access, it may file a paper form, which can be found in the March 4, 2002 *Federal Register*, at 67 CFR 9874. The form should be mailed to FinCEN, P.O. Box 39, Mail Stop 100, Vienna, VA 22183.

Once the certification form is filed, the filing institution may share information regarding individuals, entities, organizations, and countries for one year, beginning on the execution date of the certification form. To continue to share information after the expiration of the one-year period, a financial institution must submit a new certification form.

The information acquired through sharing can be used for no other purpose than to identify and report on activities relating to terrorism

or money laundering. Under FinCEN's rule, a financial institution receiving information can only use the information in connection with a decision to close or maintain an account or to engage in a transaction. Section 314(b) of the USA Patriot Act provides a safe harbor from liability for information sharing undertaken in accordance with the provisions of FinCEN's regulation.

In deciding with whom institutions may share information, careful attention should be paid to the definition of financial institution in the regulation. "Financial institution" is defined generally to include most financial institutions that are subject to the banking agencies' and Treasury's suspicious activity reporting requirements (e.g., banks, bank holding companies, savings associations, and broker-dealers). FinCEN is specifically requesting public comments on whether additional types of financial institutions should be permitted to share information under this regulation.¹

FinCEN's rule requires that all financial institutions sharing information under section 314(b) of the USA Patriot Act have procedures in place to protect the security and confidentiality of shared information and to ensure that the information is used only for authorized purposes. Until new Bank Secrecy Act and USA Patriot Act examination guidance is issued by the Board, examiners should, at a minimum, make sure that state member banks and other banking organizations supervised by the Federal Reserve are aware of the provisions of section 314(b) and FinCEN's new rule, and take steps to ensure the proper use of any information received pursuant to the new information sharing protocols and to protect the confidentiality of shared information.

Reserve Banks are asked to send a copy of this SR letter to the banking organizations in their districts that they supervise and to supervisory staff. Any questions with respect to this letter should be directed to Carmina S. Hughes, Special Counsel, at (202) 452-5235; Pamela J. Johnson, Senior Anti-Money Laundering Coordinator, at (202) 728-5829; or Nina Nichols, Counsel, at (202) 452-2961. It is important to note that the new rule that was issued by FinCEN under section 314(b) can be interpreted only by the U.S. Department of the Treasury. Board staff will work with that agency in providing guidance to examiners and the banking organizations supervised by the Federal Reserve.

Herbert A. Biern
Senior Associate Director

Note:

1. Section 314(b) of the USA Patriot Act and FinCEN's rule apply to "financial institutions" as well as to "associations of financial institutions," a term that is not defined in the law or in the new rule.
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