



DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK

Memorandum of Understanding
between the
Financial Crimes Enforcement Network
and the
Consumer Financial Protection Bureau

This Memorandum of Understanding (the "MOU") is between the Financial Crimes Enforcement Network ("FinCEN"), a bureau within the U.S. Department of the Treasury, and the Bureau of Consumer Financial Protection (the "Agency"), a bureau within the Federal Reserve System established by the Consumer Financial Protection Act of 2010 ("CFP Act"), Pub. L. No. 111-203, Title X, 12 U.S.C. § 5481 et seq. This MOU states the terms under which the Agency participates in the program that FinCEN maintains to permit qualifying organizations to obtain direct electronic access to information collected pursuant to the reporting authority contained in the Bank Secrecy Act (the "BSA"), 31 U.S.C. § 5311 et seq. To the extent that FinCEN and the Agency have entered into previous direct electronic access agreements, this MOU supersedes such agreements. To the extent that FinCEN and the Agency have entered into previous agreements concerning matters other than direct electronic access, including but not limited to information sharing agreements, this MOU does not supersede and does not alter such other agreements.

1. BSA Information. This MOU concerns access to "BSA Information," which consists of the following information when the Agency obtains that information directly from the Currency and Banking Retrieval System or any successor to that system ("CBRS"), whether by examination of screen displays, download to an Agency computer, or otherwise:

(a) Information contained in reports filed with FinCEN pursuant to its authority under the BSA, including reports identified in the List of Accessible BSA Reports attached to this

MOU at Tab A (the "List"), as such List may be revised by FinCEN from time to time, or as otherwise provided by FinCEN in writing.

(b) Information concerning whether any particular person or transaction is named or referred to in any report filed under the BSA, including but not limited to reports covered by Section 1(a), and if so, information concerning the specific form or type of form in which such person or transaction is named or referred to. Whether the results of a query are a null set or identify specific individuals as being named in one or more reports in CBRS, the query results constitute BSA Information subject to this MOU.

2. Electronic Access to BSA Information; Limitations.

(a) Purpose of Queries. Authorized personnel of the Agency ("Authorized Agency Personnel"), solely on behalf of the Agency (including in the Agency's capacity as a participant in a multi-agency task force, if applicable) and not on the behalf of any other person (including without limitation any other federal, state or local agency), may make direct electronic queries to retrieve BSA Information from CBRS, and may use BSA Information obtained from any such queries, solely consistent with the Agency's legal authority and as required and appropriate for the exercise of the Agency's regulatory authority through investigations and proceedings relating to the following: enforcement or administration of statutes, rules or regulations that affect the financial activities of financial institutions or the integrity of financial markets. For the purposes of this limitation on use, the following words and phrases have the following meanings. A "financial institution" is a person or entity that is subject to the jurisdiction of the Agency, and is either identified in 31 CFR 1010.100(t) (formerly 31 C.F.R. 103.11(n)) or has specific obligations under an anti-money laundering program or customer identification program regulation of 31 CFR Chapter X (formerly Subpart I of 31 CFR Part 103). A "financial activity"

is an activity that causes a person or institution engaging in that activity to be a financial institution. A "financial market" includes a securities exchange or over-the-counter market within the meaning of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78a *et seq.*, and a contract market or derivatives transaction execution facility within the meaning of the Commodity Exchange Act, as amended, 7 U.S.C. 1 *et seq.* The "enforcement or administration of statutes, rules or regulations that affect the financial activities of financial institutions" includes the Agency's exercise of its legal authority under the CFP Act relating to Federal consumer financial law, including the development and administration of an examination and supervision program for appropriate financial institutions.

(b) Search Limitations.

- i) In general, Authorized Agency Personnel will make best efforts to limit the BSA Information they obtain through a query to that BSA Information which is immediately useful in connection with the specific matter prompting the query. Best efforts in this context include, but are not limited to, the use of as much information as is reasonably available to Authorized Agency Personnel in framing and narrowing any query.
- ii) Authorized Agency Personnel, when making queries concerning specific persons or entities (each a "Subject"), will make best efforts to avoid the retrieval of information not relating to the Subject.
- iii) Authorized Agency Personnel will make best efforts to obtain and maintain only that BSA Information which is of value in connection with the specific matter prompting the query through which the BSA Information was obtained. The Agency will promptly destroy all documents or summaries that it has obtained or generated which

contain BSA Information that is (A) known to have been obtained in error, or (B) duplicative of BSA Information already obtained by the Agency and reasonably accessible to the Agency.

iv) In addition to the limitations contained elsewhere in this Section 2(b), the Agency will not use BSA Information to develop or contribute to any database not under the control of FinCEN that Agency personnel will be able to search as an alternative to making subsequent direct electronic queries to retrieve BSA Information from CBRS. If the Agency discovers that such a database exists and that it contains BSA Information, the Agency will immediately inform FinCEN and destroy all BSA Information contained in the database. Notwithstanding the foregoing, the Agency may create and maintain an "Agency Database" as that term is defined in the Bulk Download and BSA Database Maintenance Addendum ("Addendum") of even date herewith entered into by FinCEN and the Agency, subject to the terms of the Addendum.

(c) FinCEN Search Targeting Resources. FinCEN will use its best efforts to make available to the Agency, from time to time, either on FinCEN's own initiative or in response to requests from the Agency, analytical tools and BSA Information reviews (collectively "Analytical Materials") intended to help Authorized Agency Personnel use CBRS efficiently, maximize the value of BSA Information they obtain through queries, and minimize obtaining BSA Information of little or no value in connection with the specific matters prompting queries. The Agency will ensure that Authorized Agency Personnel (i) are promptly made aware of the Agency's receipt of Analytical Materials and (ii) use Analytical Materials to the fullest extent possible in making queries and evaluating BSA Information.

(d) Discretionary Conditions of Access. In addition to the terms, conditions and limitations stated elsewhere in this MOU, FinCEN may, if in its discretion FinCEN determines it to be appropriate, impose one or more conditions of access to CBRS, including but not limited to possible requirements that Authorized Agency Personnel (i) enter into individual user agreements acknowledging the terms and conditions under which they can obtain access to CBRS, and/or (ii) begin queries of BSA Information pursuant to this MOU with the full completion of CBRS computer access screens (the "Access Screens") for the relevant data file, before obtaining access to BSA Information. If any condition of access is imposed, no information may be retrieved from any data file hereunder unless such condition of access has been complied with.

(e) Continuing Representation and Warranty. Each query under this MOU, including if applicable completion of any Access Screen in connection with such query, shall be deemed to constitute a continuing representation and warranty by the Agency that the request for retrieval or use complies with, and any use of retrieved or analyzed information will comply with, the terms of this MOU.

(f) Disclaimer of Liability. FinCEN will make all reasonable efforts to make BSA Information available to the Agency upon the Agency's request, consistent with the terms of this MOU. However, FinCEN expressly disclaims any liability for any consequence of the non-availability of BSA Information through CBRS for whatever reason.

3. Redissemination of BSA Information. No BSA Information may be disseminated to any person outside the Agency except consistent with the provisions of the Re-Dissemination Guidelines for Bank Secrecy Act Information attached to this MOU at Tab B (the "Guidelines"), as such Guidelines may be revised by FinCEN from time to time or as otherwise provided by

FinCEN in writing. The provisions of this section also apply to information relating to specific investigations and examinations and to statistical or other information referencing or revealing BSA Information.

4. Information about Inquiries of the Agency. FinCEN may maintain as part of its internal databases information concerning queries made by Authorized Agency Personnel, including without limitation (i) information contained on the Access Screens completed by Authorized Agency Personnel hereunder, if applicable, and (ii) a record of the information in the relevant data files searched, retrieved, or both, by such Authorized Agency Personnel.

5. Networking. FinCEN seeks to facilitate networking among regulatory agencies that may be investigating the same matters. If the Subject of a query under this MOU has been or subsequently becomes the Subject of another query to FinCEN by another agency, FinCEN at its discretion and without obtaining prior permission may concurrently notify the agencies making the two queries concerning the match of information about the two queries, provided that (i) such concurrent notification will involve only the name of the Subject queried, sufficient additional information about the Subject to demonstrate the fact of the match, and information about relevant officials to contact at the two agencies, and (ii) no concurrent notification of a match will be made in a particular case to the extent that the Access Screen completed by either relevant agency with respect to that case is specifically marked to indicate the agency's decision not to permit concurrent notification due to the sensitive nature of the query involved. As the financial intelligence unit ("FIU") of the United States and the representative of the United States to the Egmont Group, an organization of national FIUs committed to the exchange of information relevant to anti-money laundering and counter-terrorist financing investigations, FinCEN may also, at its discretion but subject to provisions (i) and (ii) of the previous sentence,

concurrently notify the Agency and any foreign FIU when there is a match of information between a query by the Agency and a query by the foreign FIU.

6. Reports; Audit Trail; Compliance Inspections.

(a) Upon FinCEN's request, appropriate officials of the Agency will supply FinCEN with a report or reports of (i) the status or results of investigations or examinations relating to inquiries made hereunder, including investigations by law enforcement agencies based on referrals from the Agency in connection with such inquiries, (ii) any dissemination of BSA Information, and (iii) such other information, including statistical information, about the Agency's use of BSA Information hereunder as FinCEN may reasonably request, provided, however, that the Agency may delay providing information concerning any specific investigation or examination until such time after the final resolution of that case as the Agency in the reasonable exercise of its discretion deems appropriate. Each such report shall include a description of the status of any investigation or prosecution involved and the contribution, if any, that BSA Information made to the framing or success of the matter.

(b) The Agency may also make reports to FinCEN, at its option or at the request of FinCEN, to assist FinCEN in understanding and analyzing the value of BSA Information.

(c) The Agency shall ensure that an audit trail is maintained with respect to its compliance with this MOU. Such audit trail shall include a written record of the purpose for which any query was conducted, provided that a contemporaneous investigative or examination file relating to a Subject will satisfy the requirement to prepare such a written record. All records maintained in compliance with this paragraph shall be made available to FinCEN upon request for purposes of conducting inspections to evaluate compliance with the terms of this MOU.

(d) To ensure the Agency's compliance with the terms of this MOU, FinCEN may arrange for the conduct of onsite and/or electronic inspections of the Agency's electronic retrieval of information hereunder.

7. Security.

(a) The Agency agrees to follow the steps outlined in the Security Plan attached to this MOU at Tab C, as such Security Plan may be amended by FinCEN from time to time. The Agency will supply FinCEN with the names of all Authorized Agency Personnel, together with any additional identifying information for such individuals as FinCEN shall require, for the purposes of controlling and monitoring access to BSA Information and observance of the terms of this MOU. All Authorized Agency Personnel shall have been the subject of a satisfactory background investigation completed in accordance with the Agency's policies. At FinCEN's discretion, Authorized Agency Personnel may not be eligible for access to CBRS until after they have been trained by FinCEN concerning the use of CBRS, the data files containing BSA Information, and compliance with the terms of this MOU.

(b) The Agency shall notify FinCEN immediately upon its revocation of access privileges of Authorized Agency Personnel under this MOU, including but not limited to (i) revocations of access privileges associated with routine personnel actions such as retirement or other changes in employment status, and (ii) revocations of access privileges associated with non-routine disciplinary action.

(c) The Agency shall notify FinCEN immediately if the Agency (i) imposes sanctions upon any Authorized Agency Personnel or (ii) discovers any unauthorized use of or access to BSA Information, whether by Authorized Agency Personnel or otherwise.

8. Training. FinCEN will train, as resources permit, Authorized Agency Personnel in the use of CBRS, the data files containing BSA Information, and compliance with the terms of this MOU.

9. Control of Records: Open Information and Privacy Laws. Information obtained from any data file pursuant to this MOU in the custody of the Agency will be deemed to constitute a record under the control of FinCEN for purposes of (i) the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, (ii) the Privacy Act, 5 U.S.C. § 552a, (iii) any other laws, regulations and policies applicable to the sources, use, disclosure, or dissemination of BSA Information in the custody of the Agency (collectively, "Other Open Information and Privacy Laws"), and (iv) any requests or demands for BSA Information made to the Agency, whether or not such requests or demands are made consistent with FOIA, the Privacy Act, or Other Open Information and Privacy Laws. The Agency represents that it does not know of any Other Open Information and Privacy Laws in effect on the date of this MOU that grant any right of access to BSA Information in the custody of the Agency on the part of any person that is greater than the rights granted to such persons under FOIA, the Privacy Act, and this MOU. The Agency will inform FinCEN within ten (10) business days after the Agency becomes aware of the possibility that any new or existing Other Open Information and Privacy Laws will grant any such greater right of access. The Agency will notify FinCEN's Office of Chief Counsel if the Agency is served with a subpoena or other request for BSA Information obtained by the Agency hereunder.

10. Costs. The Agency is responsible for costs to the Agency that may arise in connection with its compliance with this MOU, its use of BSA Information consistent with this MOU, and its receipt of training as contemplated by this MOU, including but not limited to travel expenses of Authorized Agency Personnel for the purpose of receiving training. FinCEN

imposes no charges for access of Authorized Agency Personnel to BSA Information hereunder and no charges with respect to the travel expenses of FinCEN personnel for the purposes of exercising FinCEN's inspection rights or providing training as contemplated by this MOU. Notwithstanding anything to the contrary in this MOU, FinCEN retains the right to condition access to BSA Information after some future date on payment by the Agency of a fee that reflects equitable cost-sharing arrangements between FinCEN and the Agency.

11. Authority to Sign; Effective Date; Termination. The persons identified below as signing on behalf of FinCEN and the Agency have the authority to commit FinCEN and the Agency to the undertakings contained in this MOU for the period during which this MOU is effective. This MOU shall become effective as of the first Monday immediately following the date on which it is signed on behalf of FinCEN (the "Effective Date"). This MOU may be terminated by either party upon written notice to the other, effective 30 days from the date that notice of termination is sent (the "Termination Date"). The Agency's access rights to BSA Information under this MOU will terminate on the Termination Date. FinCEN reserves the right without notice to suspend the Agency's access to data files containing BSA Information if, in FinCEN's discretion, such suspension is necessary for reasons of security or for failure to observe the terms of this MOU. Any such suspension does not constitute notice of termination of this MOU.

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Accepted and agreed to:

FINANCIAL CRIMES ENFORCEMENT NETWORK

By:



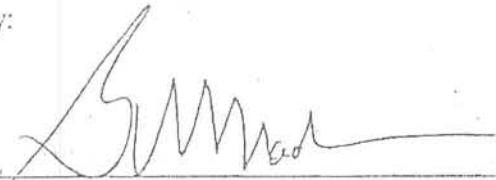
BC

James H. Freis, Jr.
Director

Date: June 3, 2011

The Department of the Treasury, acting on behalf of
THE CONSUMER FINANCIAL PROTECTION BUREAU

By:



George W. Madison
General Counsel
Department of the Treasury

Date:

Attachments:

- Tab A: List of Accessible BSA Reports
- Tab B: Redissemination Guidelines
- Tab C: Security Plan

List of Accessible BSA Reports

The following types of reports filed with FinCEN pursuant to its authority under the BSA will be accessible under this MOU:

1. currency transaction reports filed by financial institutions other than casinos ("CTRs");
2. currency transaction reports filed by casinos ("CTR-Cs");
3. reports of international transportation of currency and monetary instrument ("CMIRs");
4. reports of foreign bank and financial accounts ("FBARs");
5. suspicious activity reports by depository institutions ("SAR-DIs"), including: (a) SAR-DIs filed by depository institutions and other entities directly supervised by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration ("SAR-DIs"), which are filed pursuant to both FinCEN rules and concurrent rules issued by the primary federal regulator of the depository institution or other entity filing the report; (b) SAR-DIs filed by depository institutions lacking primary federal regulators; and (c) other SAR-DIs filed by FinCEN itself and other regulators in the exercise of their discretion;
6. suspicious activity reports filed by participants in the securities, futures and insurance industries ("SAR-SFs");
7. suspicious activity reports filed by casinos and card clubs ("SAR-Cs");
8. suspicious activity reports filed by money services businesses ("SAR-MSBs");
9. reports of cash payments over \$10,000 received in a trade or business ("Form 8300s");
10. registration forms filed by money services businesses ("MSB Registration Forms"); and
11. forms completed by banks to designate certain persons as exempt from CTR reporting ("DEP Forms").

Special Notice Concerning Suspicious Activity Reports. To the extent that the Agency uses a suspicious activity report in an investigation or proceeding, the Agency is hereby reminded that

such a report contains information regarding activities deemed suspicious by the filing institution. FinCEN does not independently assess the reasonableness of filing institutions' suspicions or the completeness of suspicious activity reports. The Agency shall not take any adverse action in a proceeding based solely upon the suspicions expressed in a suspicious activity report before investigating and reaching an independent judgment on such suspicions. The audit trail which the Agency is required to maintain pursuant to Section 6(c) of the MOU shall contain documentation of the Agency's efforts with respect to such investigation.

TAB A

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TABB



DIRECTOR

DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK

November 28, 2007

MEMORANDUM FOR LAW ENFORCEMENT LIAISONS
LAW ENFORCEMENT CUSTOMERS OF FINCEN
GATEWAY USERS
FEDERAL BANK SUPERVISORY AGENCIES AND
OTHER FEDERAL FUNCTIONAL REGULATORS
STATE BANK SUPERVISORY AGENCIES WITH
CBRS ACCESS

FROM: James H. Freis, Jr. [REDACTED] bc

SUBJECT: *Revised Re-dissemination Guidelines for BSA Information*

Attached please find a copy of the revised *Re-dissemination Guidelines for Bank Secrecy Act Information* (the "revised Guidelines"), along with the accompanying appendices, just issued by the Financial Crimes Enforcement Network ("FinCEN") of the U.S. Department of the Treasury. The revised Guidelines establish a framework for the re-dissemination of reports collected under the Bank Secrecy Act ("BSA"), codified at 31 U.S.C. 5311 et seq. The revised Guidelines supersede the prior guidelines issued in December 2006.

The revised Guidelines are identical to the prior guidelines issued in December 2006, except for two minor technical changes made to Appendices I and II.

If you have any questions, please call FinCEN's Office of Chief Counsel at (703) 905-3590.

November 28, 2007

RE-DISSEMINATION GUIDELINES FOR BANK SECRECY ACT INFORMATION

I. Purpose

The purpose of this document is to establish guidelines for the re-dissemination of information required to be reported to the Department of the Treasury under the authority of the Bank Secrecy Act (BSA), codified at 31 U.S.C. 5311 *et seq.*¹ These guidelines apply to the re-dissemination of BSA information in the possession of a Federal, State, or local government agency. Because BSA information generally consists of personal and/or sensitive financial data, the dissemination of such information is subject to strict control.

II. Background

Both by operation of Federal law and Treasury delegation, the Financial Crimes Enforcement Network (FinCEN), a Treasury bureau, is responsible for administering the BSA. Pursuant to section 361 of the USA Patriot Act, Pub. L. 107-56, codified at 31 U.S.C. 310, FinCEN has been vested with the authority to “[m]aintain a government-wide data access service, with access, in accordance with applicable legal requirements, to . . . [i]nformation collected [under the authority of the BSA].” 31 U.S.C. 310(b)(2)(B). FinCEN also has been granted the authority to “disseminate the available data in accordance with applicable legal requirements” and to “[a]dminister the requirements of [the BSA], to the extent delegated such authority.” 31 U.S.C. 310(b)(2)(C) and (I). In 2002, the Secretary of the Treasury signed Treasury Order 180-01, updating the mission, duties, and powers of FinCEN. This Treasury Order has expressly delegated to FinCEN the authority to “take all necessary and appropriate actions to implement and administer the provisions of [the BSA and its implementing regulations.]”

In its role as the administrator of the BSA, FinCEN is the central point of dissemination of BSA information. Having a central point of dissemination is the most effective way to ensure that such disclosures are made consistently and in accordance with applicable legal requirements, such as those contained in the BSA and the Privacy Act. An improper disclosure of BSA information could undermine the integrity of the BSA reporting system as a whole, could raise questions about the continued operation of the system, and ultimately could lead to all users of BSA information being deprived of such information.

Before FinCEN's creation in 1990, and the subsequent delegation to it of the responsibility to administer the BSA, the Assistant Secretary (Enforcement) for Treasury had delegated limited concurrent authority to the Internal Revenue Service and the U.S. Customs Service regarding the dissemination of certain BSA information. That limited authority was

¹ The purpose of the BSA is to “require certain reports or records where they have a high degree of usefulness to government agencies in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.” 31 U.S.C. 5311.

delegated pursuant to guidelines written by the Assistant Secretary in 1989 and 1988. The guidelines contained in this document supersede those prior guidelines, and the Re-dissemination Guidelines for Bank Secrecy Act Information, dated June 25, 2004, and apply to any re-dissemination of BSA information by a Federal, state, or local government agency except as otherwise provided in writing by FinCEN.

III. Definitions

For purposes of these guidelines, the following definitions shall apply:

A. "BSA information" means a report (and any information in such a report that might reveal its existence) that is filed with FinCEN pursuant to the BSA and its implementing regulations, including, but not limited to, currency transaction reports (CTRs and CTR-Cs), currency and monetary instrument reports (CMIRs), foreign bank account reports (FBARs), suspicious activity reports (SARs) (including, but not limited to, SARs filed by banks, money services businesses (MSBs), broker-dealers in securities, casinos, futures commission merchants, introducing brokers in commodities, insurance companies, and mutual funds), reports of currency transactions conducted by nonfinancial trades or businesses (Form 8300s), registration forms completed by money services businesses (MSB registration forms), and forms completed by banks to exempt certain transactions from CTR reporting (DEP forms). BSA information also includes data collected pursuant to a geographic targeting order (GTO) issued under the authority contained in 31 U.S.C. 5326 and/or 31 CFR 103.26, and data collected pursuant to a special measure issued under the authority of 31 U.S.C. 5318A. For purposes of these guidelines, BSA information includes the information in a SAR, as well as discussions between officials of a financial institution and law enforcement concerning a SAR, if the disclosure of such information or discussions would reveal the existence of a SAR. BSA information does not include financial institution records and other underlying facts and documents on which a SAR is based, unless the disclosure of such information would reveal the existence of a SAR. Any person who is unsure whether the existence of a SAR would be revealed in the course of disclosing information should contact FinCEN for guidance prior to disclosure.

B. "CBP" means U.S. Customs and Border Protection, a Federal law enforcement bureau of the U.S. Department of Homeland Security.

C. "Disseminate," "Dissemination," "Re-disseminate," and "Re-dissemination" mean the disclosure, release or transmission of a BSA report or BSA information by oral, written, or any other means of communication to any person. For purposes of these guidelines, these terms do not include the notification of a BSA report's existence or any other release of a BSA report between agencies that have been granted direct electronic access to BSA information. Consequently, such disclosures are not subject to FinCEN's approval. However, consistent with these guidelines, the disclosing Federal, State, or local government agency shall ensure that each BSA report or item of BSA information shared contains the warning statement set forth in Appendix II to these guidelines.

D. "Federal bank supervisory agencies" means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration.

E. "Federal prosecutor" means a unit of the Federal government that is charged with prosecuting civil or criminal violations of a statute, rule, or order.

F. "Federal, State, or local government agency" means a unit of a Federal, State, or local government.

G. "ICE" means U.S. Immigration and Customs Enforcement, a Federal law enforcement bureau of the U.S. Department of Homeland Security.

H. "Law enforcement investigation" means an investigation of an actual or potential violation of law, regulation or rule that is subject to a criminal and/or civil penalty.

I. "Person" means an individual, a corporation, a partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture, or other unincorporated organization or group, an Indian Tribe (as that term is defined in the Indian Gaming Regulatory Act), and all entities cognizable as legal personalities.

IV. General Rule

Subject to the following conditions, a Federal, State, or local government agency may disclose BSA information to another Federal, State, or local government agency in support of a financial institution examination, law enforcement investigation, or prosecution, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism, without first obtaining the approval of FinCEN.

Conditions:

- The disclosing Federal, State, or local government agency shall obtain at the time of disclosure the written acknowledgment of the receiving agency, reflecting its understanding that the further dissemination of such information is prohibited without the prior approval of FinCEN. A sample acknowledgment form for this purpose is attached to these guidelines as Appendix I. Copies of the acknowledgment form shall be maintained by both the disclosing and receiving agency. The disclosing agency shall ensure that the completed acknowledgment form is mailed or faxed to FinCEN using the relevant address in section VI. This acknowledgment condition shall not apply when sourcing BSA information in a report that is distributed widely to a number of different domestic agencies, such that obtaining acknowledgments would be impractical.

- The disclosing Federal, State, or local government agency shall ensure that each BSA Report or item of BSA information shared prominently contains the warning statement set forth in Appendix II to these guidelines pertaining to the use and further re-dissemination of BSA information, particularly when BSA information is sourced in a report that is distributed widely to a number of different domestic agencies.
- The disclosing Federal, State, or local government agency shall keep a record of each disclosure of BSA information. Records kept in the ordinary course of a financial institution examination (e.g., examination work papers), law enforcement investigation, prosecution or intelligence analysis may be relied upon to comply with this requirement. In any event, such records must be maintained such that they can be provided to FinCEN within a reasonable period of time upon its request.

V. Other Authorized Disseminations of BSA Information

Concurrent authority also exists to re-disseminate BSA information without first obtaining the approval of FinCEN in the following situations:

A. Disclosure of BSA Information by Federal Prosecutors in the Course of Judicial Proceedings

In limited circumstances, a Federal prosecutor may disclose BSA information in the course of a judicial proceeding without first obtaining the approval of FinCEN.² A Federal prosecutor should carefully consider the propriety of any such disclosure, particularly with respect to SARs or information that would reveal the existence of SARs. See 31 U.S.C. 5318(g)(2) (stating that a government official may disclose a SAR to the subject of the report only when “necessary to fulfill the official duties of such officer or employee.”). Because financial institutions file SARs with the expectation that they will be accorded sensitive treatment, unnecessary disclosure of SARs could frustrate that expectation and have a chilling effect on both the quantity and quality of future SAR filings. Disclosure of a SAR or the information in a SAR that might reveal its existence, should be distinguished from disclosure of the records constituting the transactions discussed in a SAR, such as a wire transfer record, which can be treated as ordinary evidence. Because the underlying documents prove the transaction, and the SAR does not, it should rarely be necessary to use a SAR in the prosecution’s case. Attorneys in the Fraud Section of the Criminal Division of the U.S. Department of Justice (DOJ), (202-514-0890), and Asset Forfeiture and Money Laundering Section of DOJ, (202-616-0593), are available for consultation on SAR disclosure issues. Because disclosure of a SAR may affect other investigations or cases and because FinCEN is

² Specific guidance relating to the disclosure of SARs by Federal prosecutors is attached to these re-dissemination guidelines as Appendix III, and was previously made available to Federal prosecutors by the Executive Office of United States Attorneys. Any law enforcement official who wishes to introduce a SAR in the course of a judicial proceeding must consult the guidelines attached herein as Appendix III for examples of the extremely limited circumstances under which such disclosure may be appropriate.

charged with responsibility for enforcing the SAR laws and regulations, FinCEN's Office of Chief Counsel, (703-905-3590), should be given advance notice if a prosecutor decides to disclose a SAR.

B. Disclosure of SARs by the Federal Bank Supervisory Agencies

The Federal bank supervisory agencies each have concurrent authority to re-disseminate a SAR (including any information in a SAR that might reveal its existence) that is filed with FinCEN by a bank or a banking organization, under rules issued under the authority of Title 31 of the United States Code and the SAR rules issued by each of the Federal bank supervisory agencies.

C. Disclosure of CMIRs by CBP and ICE

Subject to the following conditions, and to the extent that CBP and ICE are jointly or independently responsible for enforcing the CMIR requirement and for maintaining the form used to comply with that requirement, CBP and ICE have concurrent authority to re-disseminate a CMIR (including any information in a CMIR that might reveal its existence).

Conditions

- CBP and ICE shall keep a record of each disclosure made. The record shall include the name of the receiving agency, the date received, and the purpose underlying each disclosure. CBP and ICE shall furnish such records to FinCEN upon request, in the form requested.
- CBP and ICE shall ensure that each CMIR report or item of CMIR information shared contains the warning statement set forth in Appendix II to these guidelines pertaining to the use and further dissemination of BSA reports or information.

In addition, these guidelines do not apply to the initial dissemination of BSA information through the [REDACTED] 67E

VI. All Other Disseminations of BSA Information

Except as provided in sections IV and V of these guidelines, a Federal, State, or local government agency may not re-disseminate BSA information to another government agency or to any other person without first obtaining the approval of FinCEN. To obtain the approval of FinCEN, an agency must do the following:

- A Federal, State, or local government agency shall submit a written request (by regular mail, facsimile, or electronic mail) to FinCEN. The request must clearly describe the kinds of BSA information sought to be disclosed, the identity of the agency or person to receive such information, and the purpose for the dissemination.

The request also must provide a point-of-contact at the agency seeking to disseminate BSA information, in the event FinCEN has questions about the request.

- Written requests may be sent to FinCEN through the following methods:

Regular Mail

Office of Liaison Services -- Dissemination
FinCEN
P.O. Box 39
Vienna, VA 22183

Facsimile

Office of Liaison Services -- Dissemination
FinCEN
(703) 905-3755

E-mail

BSADissemination@fincen.gov

- In extremely rare cases involving the need to obtain expedited approval, FinCEN will consider oral requests for dissemination. Such requests must be made by calling FinCEN at (866) 272-1310, option 2. The requestor should be prepared to explain fully the emergency nature of the request, and the reasons why submitting a written request would be impractical.

A Federal, State or local government agency in possession of BSA information that receives requests for such information in third-party litigation, through the process described in their *Touhy* regulations, or otherwise, should contact FinCEN's Office of Chief Counsel at (703) 905-3590 before acting on the request. In the case of a SAR filed by a bank, the agency receiving the request also should contact the filing bank's primary federal regulator.

VII. Miscellaneous Provisions

A. Unauthorized Disclosure

A government official may disclose a SAR to the subject of the report only when "necessary to fulfill the official duties of such officer or employee." 31 U.S.C. 5318(g)(2). The unauthorized disclosure of a SAR, or any other BSA report, will be referred to the appropriate officials for inquiry and disposition.

B. Third Parties

This document confers no rights on and provides no defense to any person, including criminal defendants, in litigation or in other proceedings with the United States.

C. Interpretation

Final authority governing interpretation of these guidelines or the dissemination of a BSA report or BSA information rests with FinCEN.

D. Questions

Any questions concerning these guidelines should be directed to FinCEN's Office of Chief Counsel at (703) 905-3590.

APPENDIX I

SAMPLE ACKNOWLEDGMENT FORM
TO BE USED BY A FEDERAL, STATE, OR LOCAL AGENCY
FOR DISCLOSURE OF BSA REPORT INFORMATION TO OTHER AGENCIES

I understand that any Bank Secrecy Act report information provided to me by the [insert name of disclosing agency here] is being made available to me to support a financial institution examination, law enforcement investigation or prosecution, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism. I agree not to use this information for other purposes, nor to disclose this information outside of my agency without prior approval from the Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of the Treasury. FinCEN may be contacted at (703) 905-3528.

Signature and Title of Receiving
Official
Name of Receiving Agency

Signature and Title of Disclosing
Official
Name of Disclosing Agency

APPENDIX II

WARNING STATEMENT TO BE AFFIXED TO BSA
REPORT INFORMATION DISCLOSED TO OTHER AGENCIES

The enclosed information was collected and disseminated under provisions of the Bank Secrecy Act (the BSA) and U.S. Department of the Treasury regulations implementing the BSA. See 31 U.S.C. 5311, et seq.; 31 CFR Part 103. The information is sensitive in nature and is to be treated accordingly. The information may be used only for a purpose related to a criminal, tax, or regulatory investigation or proceeding, or in the conduct of intelligence or counterintelligence activities to protect against international terrorism. See 31 U.S.C. 5311. The information cannot be further released, disseminated, disclosed, or transmitted without prior approval of the Director of the Financial Crimes Enforcement Network or his authorized delegate. Suspicious activity reports filed under the BSA must be treated with particular care given that they contain unsubstantiated allegations of possible criminal activity, akin to confidential informant tips. Such reports, or the fact they have been filed, may not be disclosed by a government employee to any person involved in the transaction, "other than as necessary to fulfill the official duties of such officer or employee." 31 U.S.C. 5318 (g)(2)(ii). Unauthorized release of information collected under the BSA may result in criminal or civil sanctions.

APPENDIX III

SAR DISCLOSURE GUIDANCE

Suspicious Activity Reports (SARs) provide valuable information that can accelerate the investigation and development of cases for prosecution and provide significant leads for investigations and intelligence. The routine or unnecessary disclosure of SARs or even of their existence undermines the confidentiality surrounding their filing.

Certain financial institutions operating in the United States are required to file reports of known or suspected criminal conduct that takes place at or was perpetrated against the financial institutions. These reports, known as Suspicious Activity Reports³ or SARs, are filed with the Financial Crimes Enforcement Network (FinCEN), a bureau of the United States Department of the Treasury. SARs are made available to the law enforcement community for use in investigations, prosecutions and related law enforcement activities.

The SAR system was designed to assist the law enforcement community by requiring financial institutions to report transactions that are indicative of possible criminal activity. The required threshold for filing is easily triggered, simply by suspicion, not proof, of criminal activity. The information contained in SARs constitutes raw allegations of the most sensitive kind, precisely because the reported suspicions are unsubstantiated and unproved.

Because financial institutions file SARs with the expectation that they will be accorded sensitive treatment, unnecessary disclosure of SARs could frustrate that expectation and have a chilling effect on both the quantity and the quality of future SAR filings. Moreover, SARs may contain information concerning the methods by which an institution learned of or uncovered suspicious activity, possibly allowing other potential wrongdoers to take action to avoid those methods of detection. Law enforcement agencies and prosecutors should consider SARs similar to confidential source information that, when further investigated, may produce evidence of criminal activity.

Consistent with the treatment accorded confidential source information, the existence of SARs relating to conduct being investigated, as well as the content of SARs,

³SARs are filed under the authority of the Bank Secrecy Act, 31 U.S.C. 5311 et seq., and, in the case of banks, under federal bank supervisory agency general rule-making authority contained in Title 12 of the United States Code. SAR filers include banks, money services businesses, broker-dealers, and casinos. The Bank Secrecy Act also requires filing of currency transaction reports (CTRs), currency and monetary instruments reports (CMIRs), and foreign bank account reports (FBARs).

should not normally be disclosed to persons outside the law enforcement community. Disclosure of a SAR should be distinguished from disclosure of the records constituting the transactions discussed in a SAR, such as a wire transfer record, which can be treated as an ordinary piece of evidence. Because the underlying documents prove the transaction, and the SAR does not, it should rarely be necessary to use a SAR in the prosecution's case.

Special Note -- Disclosure of SARs and SAR Information to Subjects

Given the nature of the information contained in SARs and the purposes for which such information is collected, there are strict statutory restrictions governing disclosures of SARs, or the fact that SARs have been filed⁴ when these disclosures are made to persons involved in the reported transactions. These provisions recognize that there will be instances in which the disclosure of SARs or their contents is unavoidable due to constitutional or statutory discovery obligations placed on prosecutors. Under 31 U.S.C. 5318(g)(2), no government official may disclose a SAR to a person involved in the transaction "other than as necessary to fulfill the official duties of such officer or employee." For example, it may be necessary for a prosecutor to disclose a SAR in situations in which the SAR:

- *contains exculpatory or potential impeachment information that a prosecutor is constitutionally obligated to disclose; or*
- *is a document or contains information required to be disclosed under Fed. R. Crim. P. 16 or the Jencks Act, 18 U.S.C. 3500.*

In these and other instances in which a prosecutor believes that disclosure of a SAR to the defense may be compelled by constitutional, statutory or regulatory authority, the prosecutor should consult with supervisory personnel in the office to consider whether the SAR or the material included within the report must be disclosed to the defense, or whether it may be withheld, redacted, limited by protective order or otherwise protected from disclosure. Attorneys in the Criminal Division's Fraud Section, John Arterberry, Barry Goldman and Jack Patrick (202-514-0890), and Asset Forfeiture and Money Laundering Section, Lester Joseph (202-616-0593), are available for consultation on SAR disclosure issues. Because disclosure of a SAR may affect other investigations or cases

⁴As amended by the USA PATRIOT ACT (Pub. L. 107-56), 31 U.S.C. 5318(g) states in relevant part:
(2) NOTIFICATION PROHIBITED --

(A) IN GENERAL -- If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency

(i) the financial institution, director, officer, employee, or agent may not notify any person involved in the transaction that the transaction has been reported; and

(ii) no officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

and because FinCEN is charged with responsibility for enforcing the SAR laws and regulations, FinCEN's Office of Chief Counsel, 703-905-3590, should be given notice if an office decides to disclose a SAR.

TABC

FOR OFFICIAL USE ONLY

**BANK SECRECY ACT
INFORMATION ACCESS SECURITY PLAN**

This Bank Secrecy Act ("BSA") Information Access Security Plan (the "Security Plan") sets forth the security features required to ensure that BSA Information accessed by Agencies from the Financial Crimes Enforcement Network (FinCEN) is safeguarded appropriately by Agencies and Authorized Agency Personnel.

BANK SECRECY ACT INFORMATION ACCESS SECURITY PLAN

I. DEFINITIONS

- A. Agency: An organization which is named in an MOU (see definition below).
- B. Authorized Agency Personnel: All individuals who have been granted direct, online electronic access to the System by FinCEN to conduct the business of an Agency.
- C. BSA Information: Information that is either: (i) obtained from a report filed under the BSA to which an Agency has access pursuant to an MOU (see definition below); or (ii) responsive to a query of CBRS (see definition below) that indicates whether any particular person or transaction is named or referred to in any report filed under the BSA, and if so, information concerning the specific form or type of form in which such person or transaction is named or referred to
- D. CBRS: The Currency and Banking Retrieval System, currently maintained at the Internal Revenue Service Enterprise Computing Center in West Virginia, or any successor to that system as FinCEN's primary electronically accessible repository of information derived from BSA reports. Also referred to as the "System."
- E. MOU: The Memorandum of Understanding executed by FinCEN and the Agency that states the terms under which the Agency has direct, online electronic access to certain information contained in the System subject to the terms of this Security Plan.
- F. Public Access Area: Any uncontrolled or shared wireless internet access point, commonly referred to as a "Hot Spot."
- G. Secure Outreach. The web portal provided by FinCEN that allows Authorized Agency Personnel to access CBRS (see definition above). Secure Outreach is not capable of supporting classified queries of CBRS.

II. PERSONNEL SECURITY

- A. Categories of Authorized Agency Personnel. Authorized Agency Personnel must be (1) designated employees of the Agency or (2) contractors under the supervision of a designated employee of the Agency.
- B. General Security Principles. Authorized Agency Personnel must be of high integrity and in good standing with their respective Agency. Personnel security screening or background investigations must be conducted on personnel designated to become Authorized Agency Personnel. To the extent that an Agency conducts a screening or background investigation to comply with this Security Plan, the Agency may use the results of that investigation to determine suitability for access to BSA Information independent of any consideration for eligibility for employment,

promotion or benefits. However, employment decisions are at the sole discretion of the Agency. Any questions that the Agency has concerning standards of suitability for Authorized Agency Personnel regarding access to BSA Information can be addressed by the Secure Outreach Helpdesk at 1-866-BSA-1310 (1-866-272-1310).

C. Required Initial Screening Factors for Authorized Agency Personnel Background Investigations. While it is understood that most, if not all, law enforcement departments and regulatory agencies require their personnel to pass some type of a background investigation as a condition of employment, FinCEN requires that, before an Agency can propose a person for Authorized Agency Personnel status, the Agency must have successfully completed a background investigation on that person that includes the following two factors at a minimum:

1. Criminal history checks of National Crime Information Center (NCIC), state and local indices (background checks of federal employees completed under U.S. Office of Personnel Management guidelines are deemed to meet this standard);
2. Obtain identifying information, to include full name, date of birth, and social security number and form a reasonable belief as to the individual's identity.

D. Discretionary Screening Factors. An Agency may consider one or more of the following discretionary factors in conducting an initial background investigation of persons to be designated as Authorized Agency Personnel:

1. Prior employment checks for the past five years;
2. Educational institution(s) checks for verification;
3. Named and unnamed references (suggested minimum of three named references, with two developed during the investigation);
4. Credit checks to determine credit history;
5. Illegal drug screening; and
6. Submission of fingerprint records to the FBI.

E. Renewal Screening Standard. An Agency may consider that any background investigation in compliance with this Security Plan be renewed every five (5) years, that it involve criminal history checks, to include NCIC or OPM, state and local indices, and that the Agency consider having it involve one or more of the discretionary screening factors listed in Section II.D. above.

F. Current Good Standing. The Authorized Agency Personnel must not currently be under investigation or pending judicial proceedings for any criminal offense, or otherwise present the appearance of being other than of good character, worthy of trust and confidence by the Agency and its employees.

G. Citizenship/Residency. The Authorized Agency Personnel must be citizens or permanent resident aliens of the United States. However, FinCEN may give waivers of this standard on a case-by-case basis in extenuating circumstances (e.g., where certain non-resident aliens are assisting in specific investigations, and their need for access is deemed critical to the particular case or matter).

H. Authorized Agency Personnel Certification. Periodically, but no less than once a year, FinCEN will send a list of Authorized Agency Personnel to the Agency's designated representative for certification that all Authorized Agency Personnel of record require continued access to the System.

I. Notification of Authorized Agency Personnel Deletion. The Agency's designated representative shall notify the Secure Outreach Helpdesk at 1-866-BSA-1310 (1-866-272-1310) within one (1) business day of receipt of information of an event that requires Authorized Agency Personnel to be deleted from the System, and will follow with a written explanation of the reason(s) for deletion. Reasons for deletion include, but are not limited to: resignation, reassignment, and security or integrity concerns.

J. Authorized Agency Personnel Inspections. FinCEN retains the right, in routine BSA Report Database inspections, or in specific instances if there are suspicions of System abuse, to request verification of the Agency's compliance with personnel security background requirements in connection with Authorized Agency Personnel. (See *infra* Section V for additional details.)

III. PHYSICAL SECURITY

A. System Connections. Access to BSA Information via terminals and printers, will be limited to appropriate personnel. The Agencies will take reasonable precautions to ensure that Authorized Agency Personnel do not connect to the System using terminals or printers that are located in areas readily accessible to persons other than Agency employees or contractors (e.g., hallways or foyers subject to uncontrolled public access). If connections are made via a wireless network, then security that is at least equivalent to the Agency's wired network must apply.¹

B. Conditions of Access. If FinCEN in its discretion determines it to be appropriate, FinCEN may impose one or more conditions of access to Secure Outreach and/or CBRS, including but not limited to possible requirements that Authorized Agency Personnel (i) enter into individual user agreements acknowledging the terms and conditions under which they can obtain access to CBRS and/or (ii) begin queries of BSA Information (as such term is defined in the MOU) pursuant to the MOU with the completion of CBRS computer access screens for the relevant data file to the fullest extent possible, before obtaining access to BSA Information. If any condition of access is imposed, no further information may be retrieved from CBRS, or any

¹ Wireless networks transmitting BSA information must be configured with Counter Mode with Cipher Block Chaining MAC Protocol (CCMP) RSN. The IEEE 802.11i standard supports this protocol. For more information, please consult the National Institute of Standards and Technology (NIST) Special Publication 800-48 revision 1, Guide to Securing Legacy IEEE 802.11 Wireless Networks. WEP and WPA are not acceptable protocols.

relevant data file pursuant to the MOU until compliance with such condition of access.

C. Maintenance and Destruction of BSA Information.

1. In general, the Agency will take reasonable precautions to ensure that Authorized Agency Personnel make best efforts to limit the BSA Information they obtain through a query to that BSA Information which is immediately useful in connection with the specific matter prompting the query. Best efforts in this context include, but are not limited to, the use of as much identifying information as is reasonably available to Authorized Agency Personnel in framing and narrowing any query.
2. The Agency will take reasonable precautions to ensure that Authorized Agency Personnel promptly destroy all BSA Information not of value for the specific matter queried that the Agency has obtained or generated, consistent with applicable record retention requirements such as for financial institution examination workpapers and reports. All electronic files containing such BSA Information will be deleted following National Security Agency (NSA) guidelines on computer media sanitization.² Hard copies of all such BSA Information will be destroyed by shredding, pulping, or burning.
3. The Agency will take reasonable precautions with respect to storage of hard copies of materials containing BSA Information and any materials that document how Authorized Personnel access and use Secure Outreach or CBRS ("System Documentation"). Neither BSA Information nor System Documentation will be left unsecured. If BSA Information and/or System documentation is being used in a working area for which access is restricted to Agency employees and contractors, it can be left unattended either in a locked single-occupancy office or in a locked container such as a safe, cabinet, or desk drawer. BSA Information and/or System Documentation will never be left unattended in a working area to which persons other than Agency employees and contractors have access.

D. System Use Outside Agency Premises. Access to Secure Outreach and CBRS outside of the Agency's controlled areas is prohibited, unless there is an appropriate Agency mission-related reason that is consistent with the Agency's authorized use of BSA Information. Neither Secure Outreach nor CBRS may be accessed in Public Access Areas. Further, Authorized Agency Personnel may not access Secure Outreach or CBRS from non-official equipment such as a personally owned computer or laptop,³ publicly available computer (e.g., retail stores, business establishments or cyber cafés), or a computer or laptop offered by a private entity (e.g., hotel computer at a convention or conference).

² See: http://www.nsa.gov/ia/guidance/media_destruction_guidance/index.shtml.

³ Notwithstanding any other language in this paragraph, an Agency may request that FinCEN waive the limitation to official equipment with respect to all or part of the Agency's operations, subject to Agency assurances with respect to applicable security protocols. Any such waiver that FinCEN grants shall be in writing, signed by both FinCEN and the Agency, and applicable only prospectively from the date of signing.

E. Additional Physical Security Measures. Authorized Agency Personnel will make reasonable efforts to protect BSA Information and materials that document how Authorized Personnel access Secure Outreach or CBRS. Reasonable efforts in this context include, but are not necessarily limited to, the following: equipment in use must not be left unattended at any time without utilizing a password screensaver, logging out, removing tokens or fobs and/or if appropriate, implementing additional physical security measures.

IV. COMPUTER SECURITY

A. Privacy and Appropriate Use.

1. FinCEN, any operator of the System, all Agencies, and all Authorized Agency Personnel acknowledge that no user of the System has a reasonable expectation of privacy concerning use of the System.

2. The Agencies will take reasonable steps to ensure that Authorized Agency Personnel are aware that the inappropriate use of the System reflects on the Agency, as well as on the Authorized Agency Personnel as individuals. Agencies will take reasonable precautions to ensure that Authorized Agency Personnel will avoid making any use of the System that is inappropriate or that adversely affects FinCEN's confidence in the ability and willingness of the Agency and/or the Authorized Agency Personnel to make appropriate use of the System. Any such inappropriate or adverse use could result in suspension of the Agency and/or Authorized Agency Personnel's access to the System. FinCEN will provide written notice of such suspension or any other communication to affected Authorized Agency Personnel regarding access to the System and to the designated Agency contact.

B. Access.

1. FinCEN must approve Authorized Agency Personnel before System access will be granted to them.

2. FinCEN requires that all Authorized Agency Personnel have unique identification for accessing the System.

3. Any Authorized Agency Personnel that do not use their access to the System for a period of 90 days or more will be inactivated.

C. When System is NOT in use.

1. As indicated above, Authorized Agency Personnel are required to lock their workstations before leaving a workstation unattended.

2. Authorized Agency Personnel are at a minimum to log off Secure Outreach and CBRS at their workstations at the end of the working day.

D. Password Issuance and Protection.

1. To obtain a System password, Authorized Agency Personnel must complete a FinCEN Access Identification Form and return the completed form to FinCEN's Office of Liaison Services.
2. Authorized Agency Personnel must not share their unique passwords with anyone, including, but not limited to, other Authorized Agency Personnel. The Authorized Agency Personnel to whom passwords are issued are responsible for all queries made on accounts to which their passwords relate. Computer security audit trails will record all queries made within the System.
3. Authorized Agency Personnel must change their passwords as required and as prompted by FinCEN or any operator of the System on FinCEN's behalf.
4. After three (3) unsuccessful attempts to logon the System, Authorized Agency Personnel will be locked out of the System. If this happens, Authorized Agency Personnel or appropriate superiors must call the [REDACTED] at [REDACTED] to arrange reinstatement. 575

E. Password/Data Compromise or Loss.

1. If Authorized Agency Personnel passwords are compromised or lost, Authorized Agency Personnel must immediately notify the [REDACTED] at [REDACTED] 575
2. Authorized Agency Personnel must immediately notify the Secure Outreach Helpdesk upon the receipt of information concerning any apparent, threatened or possible BSA data compromise or loss.

F. Standards for Transmission of BSA Information. If it is necessary to transmit BSA Information, either within the Agency or to a third party consistent with the MOU and the Redissemination Guidelines, the BSA Information shall only be transmitted by one of the following methods:

1. As an encrypted email attachment;
2. By certified or registered U.S. mail, or by a courier service such as UPS or Federal Express;
3. By fax, but only if *both* of the following apply:
 - a) 1 or 2 above is not practicable, and
 - b) the sender separately communicates to the recipient that BSA Information is being sent by fax, that the recipient must stand by the receiving fax machine to receive the fax, and that the recipient must

acknowledge receipt to the sender immediately upon receiving the BSA Information being faxed;

4. As an unencrypted email attachment, but only if the email is being sent within a secured, private local area network or wide area network. The Agency's information technology administrator or FinCEN should be contacted in the event of any uncertainty as to what constitutes a single secure network.

G. Standards for Electronic Storage of BSA Information. The Agencies will take reasonable precautions to ensure that Authorized Agency Personnel use of portable computing devices (e.g., laptops) and portable electronic storage media (e.g., flash drives, removable hard drives, diskettes or CDs) intended to contain BSA Information enable encryption, and that encryption is used when Authorized Agency Personnel store BSA Information on such media.

H. Standards for Encryption. The following standards,⁴ as applicable, apply to encryption mechanisms protecting BSA Information:

1. Symmetric keys: Triple Data Encryption Algorithm (3DES) with keying option 1 or Advanced Encryption Algorithm (AES).
2. Cryptographic Hashing: Secure Hash Standard (SHA-1 or SHA-2).
3. Transport Layer Security (TLS).
4. Use of Federal Information Processing Standards (FIPS) 140-2 validated cryptographic modules.⁵

V. INSPECTIONS AND COMPLIANCE

A. Inspections. FinCEN will conduct or authorize periodic inspections to ensure that Agencies and Authorized Agency Personnel are using the System and the information accessed therein appropriately. Some of these inspections may be conducted by contacting the Agency for verification that the queries by Authorized Agency Personnel were conducted for official business purposes and with the approval of their supervisor(s). FinCEN will conduct Agency inspections randomly. However, if FinCEN receives notice that the System or the information accessed therein is being misused, FinCEN will conduct an inspection of that Agency. FinCEN officials reserve the right to inspect Agency's System records to determine if misuse of the System has occurred. Such inspections may require on-site visits to the Agency's office and access to the Agency's relevant records, consistent with the MOU.

B. Compliance. Failure to comply with this Security Plan may result in the suspension of the Agency's and/or Authorized Agency Personnel access to the System. Additionally, criminal and civil penalties may apply to the misuse of Federal

⁴ See: <http://csrc.nist.gov/groups/STM/cmvp/standards.html#02>

⁵ See: <http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/140val-all.htm>

data and resources. Such criminal and civil penalties may be pursued against Authorized Agency Personnel or any other individual offender.

Revised 11/22/2010

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ADDENDUM

Bulk Download and BSA Database Maintenance Addendum

This Bulk Download and BSA Database Maintenance Addendum (the "Addendum") forms part of the MOU entered into by FinCEN and the Consumer Financial Protection Bureau (the "Agency") under which the Agency has direct electronic access to information collected pursuant to the reporting authority contained in the BSA. Terms defined in the MOU have the same meaning when used in this Addendum.

1. Content of Agency Database.

(a) The BSA Database that the Agency may retain pursuant to Section 2(b)(iv) of the MOU (the "Agency Database") may contain any information reported on the MSB registration form (FinCEN Form 109 and any successors thereto) and no other types of reports filed with FinCEN.

(b) FinCEN and the Agency understand and acknowledge that at any given time the Agency Database should contain copies of substantially all of the information reported on MSB registration forms that are then held by FinCEN in CBRS.

2. Purpose of Agency Database. The Agency may use the Agency Database for the same purposes as the Agency may query CBRS under the MOU and for no other purposes, subject to the same limitations as apply to Authorized Agency Personnel queries to retrieve BSA Information under Section 2(a) and Section 2(b) of the MOU. The Agency may disseminate BSA Information from the Agency Database subject to the same limitations as apply to dissemination of BSA Information under Section 3 of the MOU.

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Consumer Financial Protection Bureau

3. Transfer of BSA Information to the Agency.

(a) FinCEN will arrange for the electronic transfer to the Agency, on a periodic basis to be determined by FinCEN, through a technical process that ensures secure and appropriate data transfer, of MSB registration forms in CBRS. The assistance provided pursuant to this Section 3 shall be subject, in all cases, to the resource constraints faced by FinCEN and the terms of applicable law to which FinCEN is subject.

(b) FinCEN will provide the Agency with no less than two (2) weeks written notice of any changes to the data layout of the information provided, and no less than sixty (60) days written notice of any major changes, as determined by FinCEN, to the data layout of the information provided. This written notice shall document when the changes are effective and provide a description of the changes to be made. FinCEN has designated the Assistant Director, Customer Relations Management Office, or successor, as the point of contact for the Agency regarding all information technology matters. The Agency has designated Doug Taylor, Data Lead, as the information technology point of contact for FinCEN. The contact information for these individuals as of the Effective Date is as follows:

For FinCEN:

Mok Choe
Assistant Director, Customer Relations Management Office
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183
[redacted] b6
[fax]
Mok.choe@fincen.gov

Addendum on Database Maintenance
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For the Agency:

Doug Taylor
Consumer Financial Protection Bureau
1801 L Street, N.W.
Washington, D.C. 20036.
Facsimile: (202)
E-mail: doug.taylor@treasury.gov

FinCEN and the Agency agree that any change in these designated points of contact shall be provided in writing to the other party, and that such a change shall not require written modification of this Addendum.

4. Compliance Information: Reports; Compliance Inspections.

(a) In order to allow FinCEN to fulfill its legal obligation to account for the use of BSA Information by user entities, the Agency shall ensure that an electronic information trail is maintained with respect to its compliance with this Addendum. Such information trail shall be sufficient to enable FinCEN to review the BSA Information that Authorized Agency Personnel have accessed from the Agency Database and the purpose(s) therefore (both proactive and case-specific) and should indicate any relevant Agency matter reference name or number.

(b) All records maintained in compliance with Section 4(a) of this Addendum shall be submitted to FinCEN in a report on a quarterly basis for purposes of reviewing compliance with the terms of this Addendum. This quarterly report shall include a log of queries run against the Agency Database. The log shall contain all of the fields described in the BSA Report Investigation Feedback Requirements (the "Log Information") attached to this Addendum, or any successor to these requirements that FinCEN shall develop. If the Agency is not able to provide all of the Log Information as of the Effective Date, the Agency shall use its best efforts to upgrade its systems so that all of this information may eventually be provided in the report,

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and will provide as much Log Information as possible in the interim. FinCEN may monitor the progress of the Agency in this regard and shall have the discretion to modify the terms of this Addendum if, in the discretion of FinCEN, adequate progress is not being made. In addition, FinCEN and the Agency agree that these requirements may, in the discretion of FinCEN, be modified or replaced by a superior electronic transmission containing adequate data for compliance review and feedback purposes to the extent it becomes technologically possible. The report will be provided to FinCEN electronically in a text, tab separated value format or as otherwise reasonably required by FinCEN.

(c) To ensure the Agency's compliance with the terms of this Addendum, FinCEN or its duly designated agent may conduct both onsite and electronic inspections of use by the Agency of BSA Information provided under this Addendum. The frequency of such inspections will be left to the discretion of FinCEN.

5. Security. The Agency shall maintain a level of security with respect to the Agency Database that is substantially the same as the level of security that the Agency maintains with respect to BSA Information it obtains under the MOU. In addition, Section 6 of the MOU and the Security Plan referenced therein shall apply to the Agency Database.

6. Control of Records; Notifications Concerning Open Information and Privacy Laws. Any other provisions in the MOU or this Addendum notwithstanding, the Agency Database and its contents are acknowledged to be under the control of the Agency for the purposes of FOIA, the Privacy Act, and Other Open Information and Privacy Laws. The Agency will inform FinCEN within ten (10) business days after the Agency becomes aware of any law that grants any right of access to the Agency Database on the part of any person that is greater than the right of access to CBRS granted to such person under FOIA, the Privacy Act, and Other

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Open Information and Privacy Laws. The Agency will notify FinCEN's Office of Chief Counsel if the Agency is served with a subpoena or other request for information from the Agency Database. If FinCEN receives a subpoena for information concerning the Agency Database, FinCEN shall notify the Agency.

7. Costs. The provisions of Section 10 of the MOU apply to this Addendum.
8. Effective Date; Termination. The Effective Date and Termination Date of this

Addendum are the same as those of the MOU.

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Memorandum on Database Maintenance
Consumer Financial Protection Bureau

Accepted and agreed to:

FINANCIAL CRIMES ENFORCEMENT NETWORK

By:



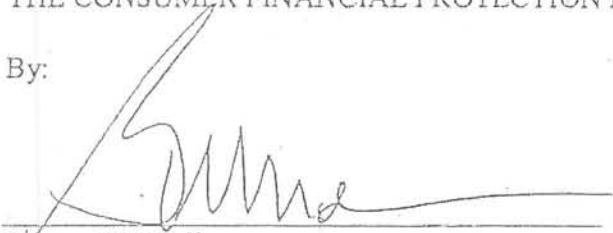
bc

James H. Freis, Jr.
Director

Date: June 3, 2011

The Department of the Treasury, acting on behalf of
THE CONSUMER FINANCIAL PROTECTION BUREAU

By:



George W. Madison
General Counsel
Department of the Treasury

Date:

FEEDBACK REQUIREMENTS

BSA Report Investigation Feedback Requirements
(refer to Addendum Section 4(b))

1. Audit ID (or local case number)
2. User last name
3. User first name
4. User middle name
5. User office code
6. User office name
7. User phone number
8. User street1
9. User street2
10. User city
11. User state
12. User zip
13. Data source (name of BSA report)
14. Query date and time
15. Document control number (BSA)
16. Query type (user queried a name, SSN, address, DOB or combination)
17. Query term (exact search parameters)
18. Network opt out
19. Record of what a user viewed (BSA Data type)
20. Queries made if a record is viewed or not (BSA data or no BSA data in file)
21. Agency case number or file number related to search
22. Subject of case (name of regulated entity being examined, individual being investigated, etc.)
23. item describing why the search was conducted (Audit, exam, newspaper article etc)
24. how was the data helpful in fulfilling your obligations



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FINANCIAL CRIMES ENFORCEMENT NETWORK

P.O. Box 39, Vienna, VA 22183-0039



REQUEST FOR RESEARCH

A. REQUESTOR Foreign U.S. Federal U.S. State/Local

Name: _____ Requesting Agency: Consumer Financial Protection Bureau

Title: _____ Operation/Project Name: N/A

Address: 1700 G Street NW, Washington, DC 20552

Telephone: _____ Agency Case Number: N/A

Fax: _____ E-mail Address: _____@cfpb.gov

B. CERTIFYING OFFICIAL (Supervisor)

I hereby certify, on behalf of the agency listed above, that this request for research is being submitted in support of a law enforcement, regulatory, or tax investigation or proceeding, or a national security matter, including the conduct of intelligence or counterintelligence activities to protect against international terrorism.

Name: _____ Title: _____

Address: 1700 G Street NW, Washington, DC 20552

Telephone: _____ Fax: _____ Email Address: _____@cfpb.gov

Signature/Date: _____ 6/11/12

C. NETWORKING WAIVER

It is FinCEN's policy to network (i.e., notify) different requestors that have submitted requests for information to FinCEN on the same subject. Networking gives the requestors the opportunity to coordinate their efforts with other FinCEN requestors, both domestic and international, on matters of mutual interest. FinCEN will disclose only the identity of your agency, your telephone number, your case number, and the common subject(s).

Are you interested in networking with domestic requestors? Yes No

Are you interested in networking with international requestors? Yes No

D. INVESTIGATIVE INFORMATION

Criminal Civil Regulatory

1. Are other Agencies participating in this investigation? Yes No

If so, please identify the agencies here: _____

2. In order to help us respond to your request, please provide a detailed overview/purpose (e.g., asset identification) of this investigation and the principal violation(s) and what type of information you need from FinCEN. Use a separate page if needed.

The CFPB is requesting the supporting documentation behind various SARs and CTRs regarding an individual that appears to be operating several entities potentially involved in mortgage or loan modification fraud.

SUBJECT INFORMATION

Total Number of Subjects in Request: 2

b3
b7c

Primary Subject(s) of Investigation (individual or business):

Name: [Redacted]

Last

First

Middle

A.K.A.s: [Redacted]

Address [Redacted]

Number Street

Apt. or Suite #

[Redacted]

City

State

Zip

Country

Telephone #: [Redacted] FBI # / SID #: _____

DOB: _____ SSN/EIN: _____

POB: _____ Gender: _____ Race: _____

Passport #: _____ Country: _____

Alien Reg. #: _____ Driver's License # / State: _____

Other information or comments:

Additional Subject(s) of Investigation (individual or business):

b3
b7c

Name: [Redacted]

Last

First

Middle

A.K.A.s: [Redacted]

Address [Redacted]

Number Street

Apt. or Suite #

[Redacted]

City

State

Zip

Country

Telephone #: [Redacted] FBI # / SID #: _____

DOB: [Redacted] SSN/EIN: [Redacted]

POB: _____ Gender: [Redacted] Race: _____

Passport #: [Redacted] Country: [Redacted]

Alien Reg. #: _____ Driver's License # / State: [Redacted]

Other information or comments:

[Redacted]

Attach additional sheets as needed. Number of additional sheets: _____

SUBJECT INFORMATION

Additional Subject(s) of Investigation (individual or business):

Name: _____
Last First Middle

A.K.A.s: _____

Address _____
Number Street Apt. or Suite #
City State Zip Country

Telephone #: _____ FBI # / SID #: _____

DOB: _____ SSN/EIN: _____

POB: _____ Gender: _____ Race: _____

Passport #: _____ Country: _____

Alien Reg. #: _____ Driver's License # / State: _____

Other information or comments: _____

Additional Subject(s) of Investigation (individual or business):

Name: _____
Last First Middle

A.K.A.s: _____

Address _____
Number Street Apt. or Suite #
City State Zip Country

Telephone #: _____ FBI # / SID #: _____

DOB: _____ SSN/EIN: _____

POB: _____ Gender: _____ Race: _____

Passport #: _____ Country: _____

Alien Reg. #: _____ Driver's License # / State: _____

Other information or comments: _____

