

**FEDERAL RESERVE BANK
OF NEW YORK**

AT-108ⁿ7(a)
May 1, 1996

FinCEN Advisories

*To the Chief Executive Officer of Each State Member Bank,
Bank Holding Company, Edge and Agreement Corporation,
and State Chartered Branch and Agency of a Foreign Bank,
in the Second Federal Reserve District:*

The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) is authorized by law to issue advisories to the banking industry and others regarding money laundering and financial crimes. FinCEN's advisories describe trends and developments in these areas. They are designed to inform your banking organization about potential criminal misconduct and suspicious activities so that you can better detect them and then alert law enforcement authorities, as well as to help your organization take preventive measures to protect itself from losses.

Recently, FinCEN issued its first two advisories, copies of which are enclosed. The first advisory describes the nature and purposes of the agency's alerts. The second, which is entitled "Enhanced Scrutiny for Transactions Involving the Seychelles," provides information about a new Seychelles' law that grants immunity from prosecution in the Seychelles to individuals who invest at least \$10 million in approved Seychelles investments. The Seychelles' law has been universally criticized, and FinCEN's advisory warns you about transactions that may involve an individual or entity doing business in, or through, the country.

Future advisories issued by FinCEN will be made available to you through the Federal Reserve Board's web site on the World Wide Web. The Federal Reserve Board's web site can be accessed at "<http://www.bog.frb.fed.us>".

In the event you have any questions about FinCEN's advisories, you can contact that agency at **(703) 905-3520**.

JOSEPH L. GALATI II
Examining Officer



United States Department of the Treasury
Financial Crimes Enforcement Network

FinCEN Advisory

**Subject:
Enhanced
Scrutiny for
Transactions
Involving the
Seychelles**

**Date:
March
1996**

**Advisory:
Vol. 1, Issue 2**

This advisory is provided to alert recipients to the following information:

Banks and other financial institutions are advised to give enhanced scrutiny to all financial transactions routed into or out of the Seychelles, or involving persons domiciled in the Seychelles. Publication of this Advisory follows the February 1, 1996 condemnation of the Seychelles Economic Development Act (EDA) by the Financial Action Task Force (FATF), an independent group of 26 countries set up by the G-7 nations in 1989 to combat money laundering.

The Seychelles is a small island nation in the Indian Ocean and is a member of the British Commonwealth. The Seychelles' government has recently enacted the EDA--a law that authorizes it to grant concessions or incentives to persons who invest at least \$10 million in approved Seychelles investments. Among the concessions specifically permitted under the law are immunity from criminal prosecution and from forfeiture of assets. An exception to the immunity created by the EDA exists only for acts of violence or drug trafficking *in the Seychelles*.

The EDA undermines international efforts of the United States and other nations to counter money laundering. For example, the law would apparently create a safe haven, in the Seychelles, for the proceeds of drug trafficking in other nations. After studying the EDA and the situation in the Seychelles, the FATF found that the EDA constituted "a serious threat to the integrity of the world's financial system." A copy of the FATF's statement is attached.

Enactment of the EDA necessarily raises questions about the purposes of any significant or unusual financial transactions that are routed into or out of the Seychelles or that involve persons domiciled there. Banks and other institutions subject to the United States Bank Secrecy Act should examine available facts relating to any such transaction. Unless such examination reveals that the transaction possesses an independent lawful business purpose and is the sort in which the customer involved would be expected to engage, institutions subject to the suspicious activity reporting rules contained in 31 CFR 103.21 (effective April 1, 1996) should report such a transaction as provided in that rule. Institutions subject to the Bank Secrecy Act, but not yet subject to specific suspicious activity reporting rules, should consider their obligations to report such a transaction either under other applicable law or on a voluntary basis.





The Treasury Department will consider any report relating to a transaction described above to constitute a report of a suspicious transaction that may not be disclosed by the reporting institution to third parties, and to which the statutory protections against liability reporting apply. The prohibition against disclosure and the protection against liability for reporting are contained, respectively, in 31 U.S.C. 5318(g)(2) and (g)(3).

Stanley E. Morris
Director

FinCEN Advisory is a product of the Financial Crimes Enforcement Network, U.S. Department of the Treasury, 2070 Chain Bridge Road, Vienna VA 22182, (703) 905-3520. Questions or comments regarding the contents of the FinCEN Advisory should be addressed to the Office of Communications, FinCEN. Information may also be faxed to (703) 905-3885.



United States Department of the Treasury
Financial Crimes Enforcement Network

FinCEN Advisory

**Subject:
Introducing
The FinCEN
Advisory**

**Date:
March
1996**

**Advisory:
Vol. 1, Issue 1**

From FinCEN's Director

This advisory is the first in a recurring series designed for the financial, regulatory and law enforcement communities. Subsequent advisories will describe trends and developments related to money laundering and financial crime.

FinCEN's goal is to serve the interests of all its customers—providing intelligence and analysis for case support to federal, state, local and international law enforcement and regulators while also providing the financial communities with the information they need to help us prevent and detect financial crime.

The advisories are founded on two basic points that are central to Treasury's counter-money laundering programs. First, criminals need to use financial institutions to launder money and often deliberately structure their transactions to appear legitimate in order to avoid detection. Therefore, financial institutions are in a unique position to assess transactions which lack commercial justification or cannot be explained by normal commerce. It would be nearly impossible to do our job without the help of businesses who see money launderers first and up close—that is, banks and other financial institutions.

FinCEN relies on financial institutions to collect meaningful information—an effective program for detection and prevention of money laundering cannot succeed unless we enlist their cooperation and support. Recently, FinCEN took a number of steps to reduce unnecessary regulatory burdens on the financial community while, at the same time, improve the quality of information available to law enforcement. Some regulations or proposed regulations were eliminated altogether; the Currency Transaction Report (CTR) was redesigned, eliminating 30 percent of the information previously collected; and we are working to substantially reduce the number of CTRs which have to be filed. As a result of a cooperative effort with the regulatory community, the process by which banks report suspicious activity has also been drastically simplified.

Second, working in partnership with the financial community requires that we provide it with the information it needs to help us prevent and detect financial crime—information which describes the trends and patterns revealed through the investigatory and regulatory process.

What should bankers look for when they review transactions? What warning signs of money laundering should regulators look for when examining a financial institution? What are the clues that may indicate money laundering? What measures can be taken to disrupt criminal activity—using banks and other financial



institutions to launder their illegally-gained profits? These are the difficult questions we will strive to answer.

The advisories, as well as other FinCEN publications, are designed to attempt to describe those clues and developments which may indicate criminal financial activity. We will need your advice. What situations are you seeing which should be made known to our readers? What topic is of particular interest to your organization? How can we best reach our goal of information exchange?

Advisories will convey different types of information. Some advisories will focus on general trends and developments that you, in the financial, regulatory and law enforcement communities should know. Other advisories will focus on the effect of those developments on specific obligations under the Bank Secrecy Act (BSA).

This first advisory lays out our plan and offers an overview of financial crime, financial investigation, and the Treasury's approach to those subjects. In future advisories, FinCEN will tell you what we are learning from our work with law enforcement and financial institution regulators. At the same time, we encourage you to make suggestions and share information



Stanley E. Morris
Director

Basic Facts about Money Laundering and FinCEN

Why is it important?

With few exceptions, criminals are motivated by one thing—profit. Greed drives the criminal, and the end result is that illegally-gained money must be introduced into a nation's legitimate financial systems. In just the United States alone, estimates of the amount of drug profits moving through the financial systems have been as high as \$100 billion.

Money laundering involves disguising assets so they can be used without detection of the illegal activity that produced them. This process has devastating social and economic consequences. For one thing, money laundering provides the fuel for drug dealers, terrorists, arms dealers, and other criminals to operate and expand their operations. Criminals manipulate financial systems in the United States and abroad to further a wide range of illicit activities. Left unchecked, money laundering can erode the integrity of our nation's and the world's financial institutions.

Why do we need financial investigations?

Financial investigations are essential if we are to beat criminals at their trade. Following the money leads to the top leadership of criminal organizations. But financial investigations are extremely complex and often difficult to carry out. First,

it takes many years of working in the financial industry to understand all its intricacies. Second, no single agency possesses a sufficiently broad or cross-jurisdictional focus and information base to track financial movements. Finally, the sheer size, variety, and pace of change of the financial sector make financial investigations even more difficult. The tools of the money launderer range from complex financial transactions, carried out through webs of wire transfers and networks of shell companies, to old-fashioned, if increasingly inventive, currency smuggling. As soon as law enforcement learns the intricacies of a new laundering technique and takes action to disrupt the activity, the launderers replace the scheme with yet another, more sophisticated method.

How has Treasury addressed the problem?

The Treasury has designated FinCEN as one of the primary agencies to formulate, oversee and implement policies to prevent and detect money laundering. It serves as the link among law enforcement, financial and regulatory communities. FinCEN accomplishes these objectives in several ways. It uses the Bank Secrecy Act (BSA) to implement comprehensive programs that go beyond currency to all financial activity and requires reporting and recordkeeping by banks and other financial institutions to preserve a financial trail for investigators to follow as they track criminals and their assets. The BSA also requires reporting of large and/or suspicious transactions that could trigger investigations.

FinCEN provides case support to its law enforcement customers—federal, state, local and international investigators—in the form of information and intelligence analyses. This information assists law enforcement in building investigations and developing new strategies to combat money laundering. Just as importantly, these reports form the core of information which is provided to FinCEN's other customers—the financial and regulatory communities—who can integrate this information into their compliance and regulatory programs. From these and other intelligence sources, FinCEN will produce advisories and other publications.

FinCEN Staff

FinCEN's unique staffing both reflects and sustains its mission. The majority of its 200 employees are permanent FinCEN personnel, including intelligence analysts, as well as specialists in the financial industry and computer field. In addition, about 40 long-term detailees are assigned to FinCEN from 21 different regulatory and law enforcement agencies.



Statutory Provisions

The Bank Secrecy Act (BSA), Pub. L. 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5330, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the BSA (codified at 31 U.S.C. 5311-5330), appear at 31 CFR Part 103. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.

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