

FRAUD ALERT

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FinCEN: Casting a Worldwide net to Capture Information on Financial Crimes

Tucked away in an office building amid Washington's suburban sprawl in Northern Virginia is the Financial Crimes Enforcement Network or FinCEN, the government's effort at a global information-gathering center on financial crime.

The network has a staff of some 200 on duty weekdays from 7 a.m. to midnight, Eastern time. For the first time, the Department of the Treasury is bringing together in one place the information and expertise of federal agencies involved in the investigation of financial crimes and the regulation of financial institutions. The network was created in 1990 to collect, analyze and disseminate intelligence on financial crimes.

The concept of creating a financial crimes intelligence organization—drawing from a multitude of sources, agencies and disciplines—had been talked about by law enforcement agencies for over a decade. But the catalyst for FinCEN's birth was President Bush's 1989 National Drug Control Strategy calling for increased attention to money laundering crimes and improved coordination of enforcement efforts in solving those crimes.

The FinCEN was proposed as Treasury's response to the drug strategy and the "war on drugs." The U.S. Customs Service and the Internal Revenue Service were directed to develop a way to improve the coordination of financial crimes enforcement within Treasury and among other agencies. In particular they were charged with improving the quality and quantity of potential leads for field agents by expanding the computerized intelligence systems.

Bankers will be making their contribution to this international information-gathering effort when they begin sending their criminal referral forms to FinCEN, which houses the centralized criminal referral database for the financial institutions regulators. To acquaint bankers with FinCEN, *Fraud Alert* talked with Brian M. Bruh, the director of FinCEN.

Fraud Alert: *FinCEN is a new acronym for most bankers. Can you briefly describe how FinCEN*

affects bankers' lives?

Bruh: The Financial Crimes Enforcement Network, also known as FinCEN, is a federal law enforcement intelligence center, primarily engaged against money laundering as well as other kinds of financial crimes. It affects a banker's life in many ways. Our mission is probably three-fold and maybe more. First, we provide support for criminal investigations, this year involving some 200 different federal, state, local and foreign law enforcement agencies. Second, we also help initiate criminal cases, where the only leads that law enforcement agencies have are from us. Third, we do strategic analysis, meaning we describe the "big picture" of trends and patterns. How are financial institutions being used for money laundering? Is the insurance industry vulnerable to money laundering? How do non-bank financial institutions use regulated financial institutions to help money launderers move their money?

We even identify individual banks that are being used by money launderers, either unwittingly or wittingly, for example, because a corrupt bank official was involved.

Fraud Alert: *Can you describe the activities of the FinCEN staff?*

Bruh: We have a staff of about 200. We have some 110 intelligence analysts. We have about 40 federal agents detailed from 13 different law enforcement agencies; we also have someone from the Federal Reserve Board and the Office of Thrift Supervision. We have about 30 computer specialists, who develop and maintain our computer systems, and about 20 resource management staff, who handle budget and administrative matters.

Fraud Alert: *The new criminal referral form is going out to bankers soon. Bankers will still have to mail it to several federal agencies. Why not just mail it to FinCEN and then have the information parceled out to the other law enforcement agencies?*

Bruh: The agencies responsible for conducting criminal investigations want that information directly as fast as they

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can get it.

Fraud Alert: *With all the information FinCEN has, how will it help reduce the amount of crime involving financial institutions? Where do you think it will have the biggest impact?*

Bruh: I think we are having an impact in several ways. It's like stopping the drug problem. There is the law enforcement that must be done, but that doesn't mean there isn't training and education and lots of other things to help stop drugs.

One of the things we do is to share information which connects things. Many times we put agencies together, for example, when they don't realize a money laundering investigation in California is related to one in New York, and maybe there is a bank involved. It may look very innocent at either end, but when put together they realize something illegal is going on there.

In addition, I think the criminal referral database that we've built is going to detect bank fraud. We're going to be able to find out much earlier that there are bad bank officials who may be trying to buy into a bank or become officers of a bank.

It is going to help identify situations that wouldn't have been discovered before, such as transactions that wouldn't normally mean anything separately, but when we analyze them as a package, FinCEN's analyses will lead agencies to criminal cases.

One has to remember that 40,000—and maybe more—criminal referrals were filed annually in the past but never centralized. The banks were filing the forms that went to U.S. attorneys' offices and to law enforcement agencies, but nobody ever put them together.

Now they are going to be in a centralized database. About 120 regulators are going to have direct access to those systems and will be able to see whether there is information in there that is going to alert them to potential fraud or some other kind of crime going on in a bank.

Fraud Alert: *So it's going to allow investigators to see trends and patterns, instead of 40,000 pieces of paper that taken individually don't mean anything when spread out among a lot of agencies?*

Bruh: Yes, and it will all be done at one place by the same outfit. That is FinCEN. I think it's going to be a wonderful thing for the banks, in addition to being good for the regulators and law enforcement.

Regulators play a crucial role in the fight against money laundering. I think the world is seeing that. I've been the head of the American delegation to the Financial Action Task Force for the past year, which is a 26-nation effort. Regulators are now part of every delegation, whether they are called a central banker or something else. Everyone now realizes they need the regulators. Frequently regulators have the first look at the bank and its records.

Fraud Alert: *What will the regulators be looking for when they tap into FinCEN?*

Bruh: They will have two uses for the criminal referral database. The first will be for bank safety and soundness examinations. Second, will be to meet the responsibility regulators have to make sure that banks are complying with the Bank Secrecy Act.

Fraud Alert: *Which financial regulatory agencies will have direct access to this database?*

Bruh: The FDIC, the Federal Reserve Board, the National Credit Union Administration, Office of Comptroller of the Currency, the Office of Thrift Supervision, and the Resolution Trust Corporation.

Fraud Alert: *Will banks have access to this database?*

Bruh: The bankers will not have access. It's a database that the six financial institution agencies will have electronic access to with a limited number of people in each of those agencies.

Fraud Alert: *Are there Privacy Act protections built into the system, so as to safeguard the information a banker provides?*

Bruh: Absolutely. The system was built in accordance with Privacy Act guidelines. You can understand the reason the bankers can't have access. These criminal referrals will result in criminal investigations. To give access to as many as 15,000 to 17,000 institutions is something we just couldn't do and protect the information.

Fraud Alert: *Why will the Internal Revenue Service have access to the database?*

Bruh: Because they are responsible for so many investigations involving banks and money movements. At this stage the IRS will not have electronic access, there are only seven entities that will have electronic access; FinCEN and the six regulators. The IRS will get a tape of the information, but they won't have electronic access.

Fraud Alert: *Will the regulators who use it the most pay the most? Is it a fee arrangement?*

Bruh: No, the only contributions in the future—barring any unusual expenses—will be toward supporting some paraprofessionals with the regulators paying a portion of

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their salaries. It's a minimal amount of money to be contributed. We will run the system. FinCEN paid 40 percent of the cost of building the system by agreement, and the rest was contributed by the regulators.

Fraud Alert: What other databases does FinCEN maintain besides the criminal referrals?

Bruh: We maintain the FinCEN database, which contains all of the requests that pass through FinCEN. This year more than 5,000 requests for investigative support came through us. These are from every federal law enforcement agency, as well as state, local and foreign. These involve investigations of some 30,000 entities. This database is unique, because it is helpful to law enforcement to know what other agencies have been investigating.

FinCEN notifies requesting law enforcement agencies of the data previously developed within the FinCEN database and the agency from which it came in order to expand the coordination among agencies. Some of this FinCEN database information is also helpful to regulators because FinCEN is better able to fulfill its proactive and strategic intelligence missions through exploitation of this data. FinCEN not only uses the raw data to point out potential targets for law enforcement agencies, but it also uses the data as an invaluable source for identifying recent trends and methods for its strategic intelligence products, which are used by law enforcement agencies and regulators as well. Because it is usually difficult for regulators to get law enforcement information, FinCEN feels a particular responsibility to get this information to regulators.

In addition, we've started on September 1, in cooperation with the IRS, to build a gateway database. It allows law enforcement agencies in the states, with Texas as the first, to have direct computer access to the entire Treasury financial database, containing the cash transaction report (CTR) forms, and the currency or monetary instruments reports (CMIRs). Those are the two primary forms that the IRS and the U.S. Customs Service maintain. If it works out well as a pilot project over the next three to six months, we'll offer this access to other states that want it.

Fraud Alert: What are the states looking for?

Bruh: Let's say they are doing a criminal investigation or they want to open a criminal case and they want to see if the suspects have moved money. I believe only seven states had signed agreements with the Treasury Department to access the financial database. The reason is that under the old arrangement they could only have that access if their states passed legislation that duplicated the federal Bank Secrecy Act requirements. Second, Treasury said, "you must tell us who you are investigating, so you don't bump into us in a criminal case." This is to avoid the IRS and a state doing separate investigations and working at cross-purposes.

We thought that was not only burdensome, but there was a weakness to the whole thing. The weakness was the state could only get the CTR forms filed by institutions in that state. Which means that if a resident of your state is

conducting large transactions in an adjoining state, you wouldn't be aware of the CTRs being filed in the other state.

Instead of doing that, we instituted Project Gateway, which will give states unlimited access nationwide to the Treasury Financial database as long as they are searching for a specific person. Under Project Gateway, states will have access to all 50 states' CTR reports; and FinCEN will be able to check to see if they are hitting an open Drug Enforcement Administration or Customs case or some other agency investigation, because we have access to most of those agencies' records.

There is a lot of information they potentially could get from us.

On the other hand, a state inquiry could trigger something that could be very important for another agency to know. Let's say DEA is doing an investigation of Harry Smith, and Texas is investigating Tom Jones, and we know that there is a connection between the two. FinCEN could let DEA know that they ought to get in touch with the State of Texas because a relevant investigation is going on.

Fraud Alert: Would the ability of bankers to send you criminal referrals by PC give you a time advantage?

Bruh: There's no doubt it would be helpful and that's probably the next step. The problem we have to overcome is the fact that many of the criminal referral forms have attachments, which are difficult to handle technically. We are now in the optical scanning phase. We devised the form knowing that we were going to scan it in, but ultimately we would like it transmitted to FinCEN by computer. ■

Keeping up with FinCEN and Financial Fraud

The Financial Crimes Enforcement Network would like to keep anyone with an interest in crimes involving financial institutions apprised of trends in such activities. Through its quarterly newsletter, Trends, FinCEN hopes to keep the financial community current on investigations, and money laundering schemes as well as emerging trends. To be put on the mailing list, write: Financial Crimes Enforcement Network, Tycon Courthouse Building, 2070 Chain Bridge Road, Vienna, Va., 22182.

If you would rather read the newsletter on your computer with a modem, you can gain access to Trends, through the Bank Secrecy Act (BSA) Bulletin Board System, maintained by the Internal Revenue Service at its Detroit Computing Center.

The BSA Bulletin Board provides financial institutions with answers to commonly asked BSA questions, administrative rulings, pending legislation and regulations, and BSA penalties, as well as anti-money laundering initiatives.

For access to the BSA Bulletin Board System call (313) 961-4704. ■

How Bankers Will Contribute to the FinCEN Database

Bankers will soon be making their own contributions to the Financial Crimes Enforcement Network (FinCEN) when they begin filing the new criminal referral form.

The FinCEN was created in 1990 as a unit of the Treasury Department in part to prevent and detect money laundering in the drive to stop drug trafficking. The database growing out of the criminal referral forms will be managed by FinCEN for the five financial institution regulators and the Resolution Trust Corp. The database is known as the Financial Institutions Regulatory Agencies Criminal Referral and Enforcement System (FIRACRES). The database will enhance the ability of federal regulatory and law enforcement agencies to track and coordinate criminal and administrative cases.

The new universal referral form replaces four or five different versions of the form that had been developed by the various agencies. Each bank or thrift regulator will be sending the new form to the institutions it regulates.

The new referral form also will be available in the form of a "shell" on a diskette, which will only require the writer to fill in the blanks on the report. The regulators say it is very user-friendly. While the form can be generated on an IBM-compatible personal computer, it can't be sent electronically. It must be laser-printed and mailed.

For state-chartered commercial banks, the distribution will be the same as in the past, except that banks will send the original to FinCEN. The form sent to FinCEN cannot be folded or stapled. Savings associations regulated by the Office of Thrift Supervision and national banks also must send a copy to the United States Secret Service.

Regulators are urging financial institutions not to buy copies of the form from vendors at this time because those forms cannot be properly scanned into FinCEN's computers. Any commercially produced forms must receive prior approval from one of the regulatory agencies.

The new FIRACRES database will allow regulators to track criminal suspects to see if they were indicted and later convicted. The database also will allow federal prosecutors to build cases that might not have been pursued in the past. For example, a \$10,000 check-kiting scheme may not attract the attention of federal law enforcement agencies, but if 10 banks report the same scam then it may be easier to prosecute.

Likewise, with the criminal referral forms being fed into one database it will be easier to detect a pattern of suspected criminal behavior by one person, or group, reported by several financial institutions scattered around the country. ■

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