



Financial Crimes Enforcement Network

A bureau of the U.S. Department of the Treasury

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FinCEN Issues Final Rule for Section 312 of the USA PATRIOT ACT

Enhanced Due Diligence for Correspondent Accounts Maintained by Certain Foreign Banks

VIENNA, Va. – The Financial Crimes Enforcement Network (FinCEN) announced today the issuance of a final rule implementing a key provision of Section 312 of the USA PATRIOT Act, clarifying the risk-based procedures that U.S. financial institutions should use in tailoring their enhanced due diligence to assess the risks of some foreign banking relationships.

“As international anti-money laundering standards improve globally, risk assessments for foreign banks should become easier to conduct. Common standards are increasingly protecting both sides of the international relationship,” said FinCEN Director James H. Freis, Jr. “U.S. banks can take comfort in the fidelity of their foreign customers and foreign banks will find it easier to process their U.S. transactions.”

The rule applies to the accounts of three specific and relatively small categories of foreign banks, including those with an offshore banking license and certain high-risk banks subject to well-recognized international or U.S. Treasury Department determinations.

The rule states that U.S. financial institutions must identify, for due diligence purposes, the owners of these foreign banks if their shares are not publicly traded and also ascertain whether such foreign banks provide correspondent accounts to other foreign banks and therefore provide them with access to the U.S. financial system. In making their risk assessments financial institutions should consider, among other factors, the nature of the foreign banks’ business, reasonably-available information on the foreign banks’ anti-money laundering record, and information on the nature of the foreign supervisory regulations under which the bank is operating.

“The institution that provides financial services is best situated to assess the risks of providing those services,” noted Director Freis. “FinCEN will continue its focus on risk and seek to provide more certainty for the industry by finalizing rules and both providing, and responding to, feedback.”

On January 4, 2006, FinCEN issued a final rule implementing the due diligence requirements for correspondent accounts for foreign financial institutions and the due diligence and enhanced scrutiny requirements for private banking accounts for non-U.S. persons. In an effort to be responsive to industry comments on significant issues, it concurrently issued a second notice of proposed rulemaking concerning the enhanced due diligence provisions, which is now finalized with this release. Today's announcement completes the implementation of Section 312 of the USA PATRIOT Act.

The final rule takes effect within 180 days for new accounts opened by U.S. financial institutions and 270 days for existing accounts from the date the regulation is published in the *Federal Register*

Attachments:

- [Final Regulation](#)

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The mission of the Financial Crimes Enforcement Network is to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity. We achieve this mission by: administering the Bank Secrecy Act; supporting law enforcement, intelligence, and regulatory agencies through sharing and analysis of financial intelligence; building global cooperation with our counterpart financial intelligence units; and networking people, ideas, and information.