United States Department of the Treasury
Financial Crimes Enforcement Network

FinCEN Advisory

Subject:
Transactions Involving Nauru

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Banks and other financial institutions operating in the United States are advised to give enhanced scrutiny to all financial transactions originating in or routed to or through the Republic of Nauru, or involving entities organized or domiciled, or persons maintaining accounts, in Nauru. The need for such enhanced scrutiny is discussed in the remainder of this Advisory.

Nauru is a small South Pacific island nation with a population of approximately 10,600. For the past two decades, Nauru has sought to establish itself as an offshore financial center. It has granted 400 licenses to so-called offshore banks.

Offshore banks are licensed by the Nauru Agency Corporation ("NAC"), which also is available, along with its affiliated companies, to act as a nominee shareholder or director of one or more of the banks it licenses. Persons seeking to establish offshore banks in Nauru are often represented by agents registered by the country.

The counter-money laundering regime embodied in the legal, supervisory, and regulatory systems of Nauru suffers from serious systemic problems.

- Money laundering is not a criminal offense in Nauru.
- Offshore banks licensed by Nauru are not required to obtain identification information from their customers.
- Offshore banks licensed by Nauru are not required to maintain customer identification or transaction records.
- Nauruan financial institutions are under no obligation to report suspicious transactions.

- There are serious questions whether the NAC is either in a position or possesses the authority properly to supervise any aspect of the offshore sector.

- Nauru maintains strong bank secrecy laws.

These deficiencies, among others, have caused Nauru to be identified by the Financial Action Task Force on Money Laundering (the "FATF") as non-cooperative "in the fight against money laundering." The FATF, created at the 1989 G-7 Economic Summit, is a 29 member international group that works to combat money laundering.

Nauru has indicated an awareness of the impact of the deficiencies in its counter-money laundering systems noted above. It has cooperated with officials from other countries in certain criminal investigations involving Nauruan institutions, and it has recently suspended the licenses of a large number of institutions pending a review of their ownership. More important for the long term, it is considering legislative changes that could remedy at least some of the deficiencies described above, and it is seeking relevant technical assistance in order to do so.

Nonetheless, the legal, supervisory, and regulatory systems of Nauru at present create significant opportunities and tools for the laundering and protection of the proceeds of crime, and allow criminals who make use of those systems to increase significantly their chances to evade effective investigation or punishment. Nauru's commitment to bank secrecy and the absence of any supervisory or enforcement mechanisms aimed at preventing and detecting money laundering increase the possibility that transactions involving Nauruan offshore entities and accounts will be used for illegal purposes.

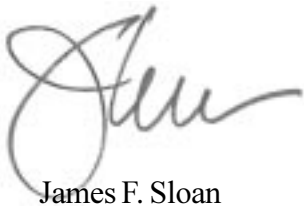
Thus, banks and other financial institutions operating in the United States should give enhanced scrutiny to any transaction originating in or routed to or through Nauru, or involving entities organized or domiciled, or persons maintaining accounts, in Nauru. A financial institution subject to the suspicious transaction reporting rules contained in 31 C.F.R. 103.18 (formerly 31 C.F.R. 103.21) (effective April 1, 1996), and in corresponding rules of the federal financial institution supervisory agencies, should carefully examine the available facts relating to any such transaction to determine if such transaction (of $5,000 or more, U.S. dollar equivalent) requires reporting in accordance with those rules. Institutions subject to the Bank Secrecy Act but not yet subject to specific suspicious transaction

reporting rules should consider such a transaction with relation to their reporting obligations under other applicable law.

It should be emphasized that the issuance of this Advisory and the need for enhanced scrutiny does not mean that U.S. financial institutions should curtail legitimate business with Nauru.

To dispel any doubt about application of the "safe harbor" to transactions within the ambit of this Advisory, the Treasury Department will consider any report relating to a transaction described in this Advisory to constitute a report of a suspicious transaction relevant to a possible violation of law or regulation, for purposes of the prohibitions against disclosure and the protection from liability for reporting of suspicious transactions contained in 31 U.S.C. 5318(g)(2) and (g)(3).

United States officials stand ready to provide appropriate technical assistance to Nauruan officials as they work to remedy the deficiencies in Nauru's counter-money laundering systems that are the subject of this Advisory.



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