



**PREPARED REMARKS OF JAMES H. FREIS, JR.**

**DIRECTOR, FINANCIAL CRIMES ENFORCEMENT NETWORK**

**8<sup>TH</sup> ANNUAL FIBA AML COMPLIANCE CONFERENCE**

**MIAMI, FL**

**FEBRUARY 27, 2008**

Good morning. I would like to thank Clemente Vazquez-Bello for his kind introduction. I'd also like to thank Pat Roth for her leadership within the Florida International Bankers Association and for inviting me to speak with all of you today at the 8<sup>th</sup> Annual Florida International Bankers Association AML Compliance Conference. I am delighted to be a part of the dynamic cadre of speakers you will be hearing from over these next two days.

I'd like to focus my remarks today on the importance to FinCEN of providing feedback to the financial institutions subject to our regulations. As you know, the sound public policy choices made over time relating to our BSA regulatory regime reaffirm the significance of an effective partnership between the government and private sector that Congress intended. We both have essential roles to play as we work together to fight money laundering, terrorist financing and other illicit activity.

Simply put, FinCEN, and the other authorized users of the BSA data, could not do our jobs without each and every one of you. The BSA reports that you file are the cornerstone of our efforts within the U.S. government to disrupt illicit financial activity. We know you take your Bank Secrecy Act (BSA) and anti-money laundering (AML) compliance responsibilities seriously and we recognize the significant costs and resources the industry invests in complying with these responsibilities. We take equally as serious our obligation to provide you with meaningful feedback based on that reporting.

The role you play in our feedback efforts is integral as well. With that in mind, I'd like to discuss four specific areas that FinCEN is focusing on to ensure we are providing you with the most useful and practical feedback:

- How FinCEN works to provide feedback on the value of the BSA data to law enforcement investigative efforts;
- How FinCEN develops information on emerging trends that we are seeing in the BSA data to help protect your institution and improve reporting;
- How FinCEN formulates guidance for the financial community to clarify your requirements under the BSA; and
- How FinCEN pursues other outreach avenues to broaden the scope of the feedback we provide.

### ***Feedback on BSA Value***

For those of you here today who are responsible for completing BSA reports within your institution, I'm sure you wonder what happens after you have filed a Currency Transaction Report or a Suspicious Activity Report with FinCEN. While investigative sensitivities don't allow us to comment often on specific investigations, we are continually working to find ways to provide you with real, tangible case examples on the utility of this information.

Last fall, FinCEN published its twelfth [\*SAR Activity Review, Trends, Tips and Issues\*](#), which in addition to providing the latest information on trends we are seeing in the data, also includes law enforcement case examples on how SARs played important roles in a variety of different kinds of investigations.

While this will continue to be a feature of this publication, I am pleased to announce today that we have also compiled the law enforcement cases from the previous twelve issues of the *SAR Activity Review* and consolidated them into one easy to find area on our website on the same page where the *SAR Activity Reviews* are posted. There are over [120 law enforcement cases](#) which can be sorted by SAR form, industry and suspicious activity type. This compilation will make it easier to find and review cases of interest and we will continue to keep this information updated as new cases are identified and cleared by our law enforcement partners for public release.

Gathering this type of feedback is a priority for FinCEN. In fact, we have staff who are solely dedicated to reaching out to our law enforcement partners and researching cases where BSA information played a critical role so we can develop these case examples.

We are also working to provide briefings on the value of the BSA data to larger groups, including banking trade associations. We've had the pleasure of hosting several trade associations and federal banking agencies at FinCEN's offices in the past year where they've had the opportunity to see and hear first-hand how the BSA data is being used on a daily basis by FinCEN analysts and our law enforcement counterparts. If your trade group or association will be in the Washington, DC area please let us know and we will work with you to arrange for a similar BSA value briefing.

For your colleagues who have received this BSA value briefing, they know that the BSA data continues to be an incredibly valuable component to law enforcement's investigative efforts. [John S. Pistole, Deputy Director, Federal Bureau of Investigation](#) provided particularly valuable

insight into the Bureau's use of this data during his speech before the American Bankers Association/American Bar Association Money Laundering Enforcement Conference in Washington, D.C. on October 22, 2007:

“Records produced and maintained pursuant to the Bank Secrecy Act are especially vital weapons in our arsenal—particularly Suspicious Activity Reports and Currency Transaction Reports. Every single one of our terrorism investigations has a financial sub-file—and one of the first things on our checklist is to query FinCEN for BSA reports that match the subject. You would be amazed at how much valuable intelligence they produce—especially SARs and CTRs.

As we have seen since the September 11th attacks, terrorists don't necessarily need huge sums of money to plan and carry out an attack. In a sample of FBI cases, about 42 percent of subjects had BSA reports filed. About 50 percent of those reports reflected transactions of \$20,000 or less. This produces a vast amount of financial intelligence.”

Another area in which we are working to increase our feedback to the financial industry is through the [314\(a\) Secure Information Sharing System](#) (SISS). While gathering statistics on the investigative benefits of the 314(a) process continues to be a priority, we are also pursuing a supplementary initiative to enhance *qualitative* feedback we are collecting from law enforcement. Late last November, FinCEN was able to share through SISS several specific case examples where law enforcement indicated to us that the information obtained through the financial institution searches was of high significance to their investigations.

Our goal in providing these cases is to bring to life real examples for the financial industry which we feel can more meaningfully illustrate the value of the 314(a) process and how it can serve as a key break-through in cases where other investigative leads have been exhausted. We hope to provide additional case examples in the near future as we gather additional feedback from law enforcement.

We know the financial industry has an ongoing interest in statistical feedback as well, and just two weeks ago on February 11, FinCEN published its latest SAR statistics with the release of the ninth [SAR Activity Review - By The Numbers](#). This report presents a compilation of numerical data gathered from SARs filed through the first six months of last year.

### ***How FinCEN Develops Information on Emerging Trends***

While the *By The Numbers* report does not analyze specific trends, changes in the reporting of some suspicious activities are of note and will be of interest to financial institutions, regulatory, and law enforcement agencies. For example, usage of the suspicious activity characterization “Mortgage Fraud” increased 35% from the corresponding six-month period in 2006.

In addition to the initial [mortgage fraud study](#) released in November 2006, FinCEN is preparing a more comprehensive analysis of mortgage fraud to be released in the near future. FinCEN's other regulatory studies have covered issues such as [shell companies](#) and [commercial real estate](#). We hope that the information provided in reports like these will help you to not only provide law enforcement with better insights into possible criminal activity, but also help you mitigate the risks to your institutions and your customers.

Further, in one of the initiatives announced last June by U.S. Treasury Department Secretary Henry Paulson, we committed to providing written feedback to the financial industry within 18 months of the effective date of a new regulation or change to an existing regulation. As such, FinCEN is currently conducting analysis on the first year of insurance industry SAR filings and intends to issue a study this April.

Every day, FinCEN analysts are using the BSA data to support law enforcement investigative efforts in new and innovative ways. In addition to providing the more traditional case support to our law enforcement partners, our analysts are also examining BSA filing patterns to conduct geographical threat assessments and study currency flows.

### *How FinCEN Develops Guidance*

Effective feedback mechanisms are cyclical, and the financial community is a vital spoke in our efforts, particularly as it relates to the [BSA guidance](#) we develop to assist in your compliance efforts.

FinCEN is working hard to provide the industry with meaningful feedback in this area. In the past year, FinCEN released 14 pieces of guidance on issues that cut across the financial industry. Our guidance has touched on aspects of correspondent account rules, obligations for money services businesses, casino recordkeeping, reporting and compliance program requirements, and the application of customer identification programs, to name but a few. FinCEN also published administrative rulings in response to questions concerning currency transaction reporting and money services businesses.

In fact, the majority of our guidance and administrative rulings are developed based upon our review of the questions we receive from the financial industry on our Regulatory Helpline and in writing. FinCEN's regulatory specialists review inquiries from financial institutions to proactively identify if we are seeing an increase in questions on a particular issue, helping us to determine where additional guidance or clarification might be needed. As a reminder, if you need assistance with a BSA regulatory question, FinCEN staff are available through our toll-free regulatory helpline number, also on our website under ["Contact FinCEN,"](#) at **(800) 949-2732**.

In addition to formulating guidance based on your inquiries, other guidance is developed through our own analysis. In October of last year, FinCEN released a reference document entitled, ["Suggestions for Addressing Common Errors Noted in SARs,"](#) which is a compilation of useful information that FinCEN discovered through its own analysis of SARs. The document, informative to all financial institutions that are required to file SARs, discusses the common

errors seen in reporting. It also provides tips for avoiding common mistakes and suggestions for establishing more efficient and effective anti-money laundering programs.

In providing this feedback on SAR analysis, FinCEN is not proposing any new requirements. We are just trying to ensure, through continual outreach and education, that compliance officials accurately report the information that they already possess. FinCEN expects that SAR filers who are trained on the requirements would already have available the information necessary to complete the SAR properly, meaning that substantial improvements to SAR filing could be made without significant additional efforts beyond those already undertaken for the investigation and decision to file.

In addition to this reference document, last September, FinCEN announced the availability of three different [Money Services Business outreach products](#) for the MSB community explaining their BSA responsibilities in English and seven other languages – Spanish, Chinese, Vietnamese, Korean, Arabic, Farsi, and Russian.

FinCEN translated these MSB outreach publications into seven foreign languages in response to numerous requests from the MSB industry for foreign language guidance materials. We expect that making these materials available in multiple foreign languages will enhance greatly our MSB outreach efforts, particularly in communicating with the many ethnic communities affected by our BSA regulations, which in turn will help MSBs provide quality information and therefore help us provide the best information to our law enforcement and regulatory partners. In fact, these publications are available to you at the IRS booth just outside this room in the exhibition area. I encourage you to stop by the IRS booth to pick up these and other FinCEN materials.

Staff at FinCEN are also conducting outreach to a variety of institutions to help broaden our understanding of financial industry practices, as well as what information institutions need in order to effectively implement their AML programs. To initiate this effort, we recently reached out to the fifteen largest depository institutions in the United States to determine their interest in meeting with FinCEN representatives to discuss these issues. We are optimistic that the information gathered from these meetings will help inform our efforts to develop additional guidance for the financial industry as a whole, such as the identification of red-flag indicators useful in detecting and reporting suspicious activity of interest to law enforcement. While this is the first stage of this outreach effort, we expect to expand this initiative to other industry segments as we move forward.

We will continue to take this more proactive approach to the development of guidance based upon the valuable input we are receiving from industry. The Bank Secrecy Act Advisory Group (BSAAG), FinCEN's own statutorily created forum where we have frank discussion among representatives of law enforcement, regulators and all sectors of the financial service industry, is another helpful forum where we receive input from industry on the need for clarifying guidance.

Again, as part of this feedback cycle, your role in helping us refine our feedback products is crucial to this process. If there is an area where additional clarity is needed, please let us

know. Similarly, if you find a specific piece of guidance is particularly useful, we hope you would pass this feedback on to us as well.

### ***Additional Ongoing Feedback Avenues***

Let me emphasize that feedback is an ongoing process. And one of the best ways to broaden our knowledge, provide you with feedback, and hear directly from you is by participating in events such as this one today. At FinCEN, on essentially a weekly basis, we participate in conferences, meetings and events for the banking, credit union, securities, futures, accountancy, casino, money services business and other industries. That is not to mention the numerous law enforcement conferences and intergovernmental meetings and events to which we contribute.

People are often surprised to learn that FinCEN's workforce is made up of only about 300 people. In 2007, FinCEN staff spoke at 129 events within the financial, regulatory, and law enforcement community, often providing multiple speakers at each event. This equates to an average of more than two events per week. For a small bureau I think that is a noteworthy commitment.

Another important feedback avenue where we will continue to focus our efforts with other regulators is for timeliness and consistency in the extreme instances where enforcement actions are merited. We will work toward better communication on how penalties are correlated to the underlying violations and avoid misimpressions about the nature of such conduct. Our recent enforcement actions, which were each joint and concurrent actions with other responsible government authorities, serve as an example of this collaboration to apply a consistent approach to BSA enforcement.

As I have stated, when we issue enforcement actions - especially major enforcement actions - they are rare and only applied when appropriate. The information lost to law enforcement when an institution fails in its AML obligations puts other institutions, and the broader financial system, at risk.

I understand that the financial community pays attention to enforcement actions, and I am committed to ensuring that when we take these actions, we provide as much information as possible about the underlying facts that led to the penalties. It is paramount to FinCEN and our federal partners that we continually work to dispel the myth that minor technical infractions lead to major penalties. I recognize the significant investment of both human and monetary resources made by the industry to promote the prevention of money laundering and national security, and thank those working in good faith to carry out their AML/CFT obligations.

In addition, we will also leverage technology on the feedback front. We are in the process of redesigning FinCEN's entire web site to make information more accessible to all of our stakeholders going forward. Some of you have graciously participated in some of the activities to identify what information is important to you and to doing your job and where it should be located on the web site. The web site is being redesigned to incorporate institution-specific information that is aimed at making it easier to find compliance requirements and related

information. I am excited about this project and am happy to report that we are on schedule for the launch of FinCEN's new website later this spring.

And, the easiest way to receive the latest feedback from FinCEN is to become one of the over 20,000 subscribers that receive free, automated updates of new items posted on FinCEN's web site. Subscribers only need to provide their e-mail address and are able to tailor the categories of information they receive – including FinCEN news releases, guidance and even new opportunities at FinCEN. You can sign up to receive free FinCEN updates by visiting FinCEN's website at [www.fincen.gov](http://www.fincen.gov).

### ***Conclusion***

I hope my remarks today provided you with an overview of the range of activities FinCEN is engaged in with respect to feedback. I would like to conclude today by reinforcing why providing this feedback is so important.

As I emphasized at the beginning of my speech today, my personal view is that success in our AML/CFT efforts requires the strong partnership that Congress mandated under the BSA. Providing feedback is good government. It is also essential to our risk-based approach. Both the financial industry and the government have limited resources to devote to detecting and preventing illicit financial activity. As such, we need to work together to ensure these resources are directed where they will be most productive for AML/CFT purposes.

Additionally, by providing feedback about emerging risks and criminal typologies, and about how law enforcement uses the reports you file and what they are looking for, it helps you provide the information the government needs most. This in turn helps protect your financial institutions and your customers from criminal actors and perpetrators of fraud who may try to abuse them.

I'd like to expand on this last point about our common interest by reiterating a statement made by Secretary Paulson in a speech last year before the Council on Foreign Relations; "My strong view, based on personal experience, is that the major financial institutions, and the individuals who run them, care deeply about the integrity of the financial system and the reputations of the institutions they run. They genuinely want to be good corporate citizens and want nothing to do with illegal behavior."

Thank you again for partnering with us and for all the work that you do on the frontlines to protect the financial system from abuse, thereby helping to ensure that the U.S. financial system remains safe, sound and secure. Your efforts do not go unnoticed. You have my commitment that we will work equally as hard to continue providing you with meaningful feedback to further the goal of detecting and disrupting illicit money flows.

###