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**ANTI-MONEY LAUNDERING AND COUNTER TERRORIST FINANCING
CONFERENCE**

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Good afternoon. It is a pleasure to be here with all of you today at this important conference. Before I begin my remarks, I would like to first thank the Anti-Money Laundering and Terrorist Financing Committee of the New York State Society of Certified Public Accountants for inviting me here today and for sponsoring this valuable event. Also, thank you for that kind introduction; I very much appreciate the opportunity to meet with the group we have here today.

I'm Jim Freis, the Director of the Financial Crimes Enforcement Network, better known as FinCEN. I have been the Director for about eight months now; however the valuable work of FinCEN is not new to me, since I previously worked very closely with FinCEN during my service in the Office of General Counsel at the Treasury Department before coming to FinCEN.

Prior to my public service at the U.S. Treasury Department, I spent seven years at the Bank for International Settlements (BIS) in Basel, Switzerland where I worked very closely with accountants and internal and external auditors. It was a wonderful learning experience for me and I developed a great deal of respect and appreciation for these professions.

Before joining the BIS, I worked at the Federal Reserve Bank of New York. In both of these capacities, I benefited from a wealth of opportunities to participate in policy discussions among bank supervisors, but also was directly involved in a range of banking transactions and investment decisions. I believe that this background has given me a unique perspective as FinCEN's Director in understanding the important gatekeeper role you all play in helping to protect the financial system from abuse.

Just before coming to FinCEN, and in my early days there, I spoke with Secretary of the Treasury Henry Paulson about the role of FinCEN's Director. He and I share the same view that FinCEN's mission of combating the abuses of financial crime contributes to the broader Treasury Department goal of promoting U.S. financial stability and the competitiveness of the U.S. economy. We also agree that FinCEN must engage the financial industry in an ongoing dialogue in order to fulfill its mission.

It is only by this strong engagement that we can learn from each other, and to reach effective solutions to the problems of terrorist financing, money laundering, fraud and other financial crimes being perpetrated through the financial system. Before I continue, let me take the opportunity to thank all of you for partnering with us to help ensure that the U.S. financial system remains safe, sound and secure.

As I begin my official remarks today, I want to address the title of this speech. I was asked to speak to you today about "gatekeeper" responsibilities, as they apply to accountants. *Gatekeeper* is a term generally used to refer to lawyers, notaries, accountants and other fiduciaries when they assist clients with activities like buying and selling real estate, managing assets and accounts, creating, operating and managing companies, or buying and selling businesses. Such professionals are deemed to be gatekeepers to the financial system. These professionals are believed to be in a unique position to observe transactions and possibly identify suspicious activities that may indicate money laundering, terrorist financing or other unlawful conduct.

As you all are well aware, the Bank Secrecy Act does not apply to such "gatekeepers" in the U.S regulatory regime. Other countries have taken this approach, particularly with respect to lawyers and accountants, but FinCEN is currently not contemplating any such approach. That having been said, FinCEN appreciates that this industry, appropriately as "gatekeepers," voluntarily and actively keeps abreast of BSA and the issues affecting their customers in the financial industry that are regulated under the BSA. My invitation to speak at this event attests to this fact.

As "gatekeepers," accountants are in a good position to inform their clients when the BSA may apply to their businesses. FinCEN funds certain staff within the IRS Stakeholder Liaison Division to conduct outreach and education to Money Services Businesses (MSBs). We work closely with these outreach staff to ensure we are appropriately reaching the MSB industry. The IRS Stakeholder Liaison staff regularly speaks with accounting groups, as we know that many MSBs, especially the smaller MSBs, have their taxes done by public accountants. Accordingly, in your capacity as a gatekeeper, you will likely be in a position to recognize when, based on business activities which you review to complete tax forms, your client needs to be aware of their potential BSA responsibilities. We appreciate your diligence in working with your clients and FinCEN to assist in the education process.

Often times, CPAs are hired by financial institutions to assist in their BSA responsibilities. I would like to clarify that, in this capacity; we view the accountant acting for the financial institution, rather than in the role typically viewed as a "gatekeeper." The majority

of my remarks today are with the understanding that CPAs often act for a variety of industries and, therefore, may be knowledgeable as to our recent activities relating to the BSA.

In my remarks this morning I would like to address three areas:

- The role of the accountant as he or she serves a financial institution and the importance of the independent review within the context of our risk-based regulatory approach;
- A broader discussion of effectiveness and efficiency initiatives currently underway with respect to the financial industry; and
- Feedback on how the government uses the information reported under the BSA.

As you know, one component of FinCEN's mission is that we serve as a regulator of the financial industry. The definition of the financial industry is a rather broad one; broader than most people would otherwise think. It goes beyond banking, securities and insurance to also include casinos, money services businesses and even precious metals and jewelry dealers. In other countries the definition of financial institution also includes accountants and lawyers, reflecting an even broader notion of what financial intermediation encompasses.

The breadth of the industries we regulate poses many challenges for us as we try to understand various aspects within each industry. The only way that we can do this effectively is by involving the industry itself.

As a regulator, we have essentially two main components to what we do: The first is issuing rules, such as an anti-money laundering and customer identification program requirements, which this industry follows in its role supporting financial institutions.

The second aspect is utilizing the data. FinCEN uses the information reported to us by financial institutions, such as on the suspicious activity report or currency transaction report, and combines it with other repositories of information. FinCEN conducts its own analysis, and also shares this information with other regulatory authorities and with law enforcement.

The Role of Accountants in a Risk-Based Approach

As you know, the Bank Secrecy Act requires financial institutions to establish anti-money laundering programs that include an independent evaluation function to monitor the adequacy of the institution's internal program. The scope and frequency of this independent review should be commensurate with the risk of the financial services provided by, and customer base of, the respective institution.

The review should determine whether the financial institution is operating in compliance with the requirements of the Bank Secrecy Act and the institution's own policies and procedures. Each institution should identify and assess the money laundering risks that may be associated with its unique products, services, customers, and geographic locations.

Regardless of where risks arise, institutions must take reasonable steps to manage them. Each institution should focus resources on the areas of its business that management believes

pose the greatest risk, and the level of sophistication of the associated internal controls should be appropriate for the size, structure, risks, and complexity of the institution.

Our regulations require an independent review, not a formal audit by a certified public accountant or third-party consultant. Accordingly, a financial institution does not necessarily need to hire an outside auditor or consultant. The review may be conducted by an officer, employee or group of employees, so long as the reviewer is not the designated compliance officer, does not report to the compliance officer, and has sufficient knowledge of the BSA and its regulations.

The review should provide a fair and unbiased appraisal of each of the required elements of the company's anti-money laundering program, including its Bank Secrecy Act-related policies, procedures, internal controls, recordkeeping and reporting functions, and training.

The review should include testing of internal controls and transactional systems and procedures to identify problems and weaknesses and, if necessary, recommend to management appropriate corrective actions. For example, if the program requires that a particular employee, or category of employee, should be trained once every six months, then the independent testing should determine whether the training occurred and whether the training was adequate.

The review also should cover all of the anti-money laundering program actions taken by – or defined as part of the responsibility of – the designated compliance officer. These actions include, for example, the determination of the level of money laundering risks faced by the business, the frequency of Bank Secrecy Act anti-money laundering training for employees, and the adoption of procedures for implementation and oversight of program-related controls and transactional systems.

We have worked with our partners in the regulatory community to ensure a consistent examination approach to Bank Secrecy Act compliance, including independent testing requirements. One prime example is the excellent collaboration among FinCEN and the Federal banking agencies on the development of the FFIEC Bank Secrecy Act/Anti-Money Laundering Examination Manual, which emphasizes that independent testing should be risk-based, and will vary depending on a bank's size, complexity, scope of activities, risk profile, quality of control functions, geographic diversity, and use of technology. This Manual is an excellent resource for anyone conducting an independent review of an AML program.

We have a responsibility as a government to educate the public on AML/CFT risks, and we do so through a variety of fora such as formal guidance, analysis on emerging trends, and speaking engagements such as this. However, we want to be even more proactive and effective in our outreach efforts, and we can only do so with your help. We'd appreciate and very much value your feedback on how accounting, auditing and independent controls function and what you need in order to better serve your clients in identifying risks.

However, a risk-based system only works if this feedback prong is working. One of the most productive examples of this kind of dialogue is the Bank Secrecy Act Advisory Group. Since 1994, the BSAAG has served as a forum for industry, regulators, and law enforcement to

discuss how BSA reports are used by law enforcement and how the record keeping and reporting requirements can be improved to enhance their utility while minimizing costs to financial institutions.

The BSAAG is a model of public-private sector partnership in which participants can engage in open dialogue about the issues facing them related to the protection of the U.S. financial system from money laundering, terrorist financing, and other abuse. We are very pleased to have the accounting industry represented for over 10 years on the BSAAG by the American Institute of Certified Public Accountants.

Regulatory Effectiveness and Efficiency

I know that much is asked of the financial industry to protect the financial system, and I want to assure you that FinCEN and the rest of the Department of the Treasury are committed to working with you to achieve regulatory efficiency and effectiveness in addressing our common goal of reducing the risks to our financial system.

I announced upon taking up my position that I am committed to taking a fresh look at how we at FinCEN can best carry out our mission and see if we can do things in a different way that helps the financial industry meet its compliance obligations. This is something I have challenged my talented staff to step back and think creatively about, and we are making progress.

I'd like to spend a few minutes discussing the efficiency and effectiveness proposals FinCEN is working on and let you know the status of those.

Risk-Based Approach to BSA Examination

The first initiative focused on enhancing the risk-based approach to BSA examination. FinCEN and the regulatory community recognize that not all financial institutions are subject to the same risk. This is certainly not a new revelation. At the outset, we're working hard to reiterate the importance of effective risk assessment in the banking community, but we will want to replicate our efforts in other industries as well. As we do this, it is important that we ask ourselves: How well are we doing in identifying risks through the examination process and focusing both government and industry resources on those areas where the risk is greatest?

We have been reaching out to study how different regulatory agencies are approaching risk scoping. We have had several meetings with the federal banking agencies to better understand how they go about identifying risks through the scoping process and directing their examination resources appropriately. We have also discussed the issue with several State banking departments and will be following up with more in-depth meetings.

As everyone here knows, the public policy choice requiring government and private industry to work together to fight money laundering, terrorist financing and other illicit activity is not unique to the United States, but rather represents a global consensus. So, we are also looking internationally to see how our foreign counterparts approach the same challenges.

Recently, we've had very fruitful discussions with FinCEN's counterpart financial intelligence units and AML/CFT regulators. We learned, for example, that there is a focus on risks in Canada by the Financial Transactions Reports Analysis Centre (FINTRAC) and the Office of the Superintendent of Financial Institutions (OSFI), and by the United Kingdom in the Serious Organised Crime Agency (SOCA) and the Financial Services Authority (FSA).

Many different jurisdictions are implementing risk-based examination approaches, and we are getting a lot of good insight by looking at how other countries are approaching AML/CFT compliance. The financial markets are global, and we all know criminals don't respect national borders. My personal belief is that FinCEN must be aware of these dynamics in carrying out its responsibilities here in the United States.

We are committed to being more risk-based in our regulatory approach going forward. This is why I feel it is so important that we are here today. The work you do as accountants and auditors transcends all sectors of the financial industry, so it is critical for us to understand the way you look at risks and conduct independent reviews within the financial institutions you work with so we can improve our efforts to provide guidance to you on the risks.

New Chapter in the CFR

Another area in which we are addressing regulatory efficiency and effectiveness is how we can make it easier for distinct sectors of the financial industry to know all the regulations with which they need to comply. In the federal government, we hear a lot about confusing regulations and the difficulty in complying with sprawling regulations put together in piecemeal fashion over decades. As we announced on June 22, FinCEN has begun work on the creation of its own new Chapter in the CFR with one general part and separate parts for each industry.

Currently, under FinCEN's regulations, if you are a casino, MSB or a covered insurance provider, you'd need to look in far flung sections of the regulations to locate your responsibilities. With this change, an institution will only need to look in two places to identify its compliance obligations.

From discussions at the BSAAG, and from other conversations we have had with industry, we understand that it is time for our regulations to be updated. As we push forward on this initiative, we will go through a public comment period for all interested parties to provide input on the development of the new Chapter.

Feedback

We are committed to continuing to work with our law enforcement partners to let industry and the regulatory community know as much as operational sensitivities allow about how BSA information is being used. There are many examples of how FinCEN gives and receives feedback from the industries we regulate. Twice per year, FinCEN publishes the SAR Activity Review, Trends, Tips and Issues. As the title suggests, it is a great resource for insight into the value of SARs. This publication also contains an extensive section concerning law enforcement case examples and how BSA information was used to detect and disrupt criminal

enterprises. The companion publication, *The SAR Activity Review, By the Numbers*, also provides useful raw data on the types and quantity of BSA reports that are being filed.

About a month ago, FinCEN issued a new reference document that is informative to all financial institutions that are required to file Suspicious Activity Reports (SARs). The document, "Suggestions for Addressing Common Errors Noted in Suspicious Activity Reporting," discusses the common errors seen in SARs and is a compilation of useful information which FinCEN has discovered through its analysis of SARs. It provides tips for avoiding common mistakes and suggestions for establishing more efficient and effective anti-money laundering programs. The data derived from analyzing SARs is only as good as the information submitted in the actual SAR form.

In providing this feedback, 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. We are committed to offering feedback and useful advice to help our private sector partners protect the financial system from abuse. 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 the SAR filing could be made without significant additional efforts beyond those already undertaken for the investigation and decision to file.

FinCEN is also 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 will conduct analysis and publish feedback as it relates to our rulemakings to ensure they are achieving the intended purpose.

At FinCEN, on almost a weekly basis, we participate in conferences, meetings and events that broaden our knowledge, provide feedback to the industry and inform FinCEN of important perspectives. FinCEN staff present to conferences for banking, credit union, securities, futures, casinos, money services businesses and other industries. That is not to mention law enforcement conferences and intergovernmental meetings and events. For a small bureau of 300 people, I think that is a noteworthy commitment. Let there be no doubt that feedback is a priority for FinCEN.

In the eight months since I joined FinCEN, I have taken opportunities to address groups of compliance professionals, industry leaders and executives in the U.S. and abroad. I am committed to continuing to focus a significant amount of FinCEN's resources to providing our regulated entities and the professionals who serve them with open channels and multiple vehicles for giving and receiving feedback.

We will also build on our recent successful efforts with other regulators for timeliness and consistency of enforcement actions, and 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. It is a well-considered public policy choice to place BSA responsibilities on our financial institutions. Moreover, the information lost to law enforcement when an institution fails in its obligations puts other institutions, and the broader financial system, at risk.

I understand that the financial community and its lawyers - and accountants - pay 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 dispel the myth that minor technical infractions lead to major penalties. I recognize the significant investment of resources made by the industry consistent with the public policy choice to promote national security, and those working in good faith to carry out their AML/CFT obligations should not be distracted by a misleading view of the enforcement process.

We will also be trying to leverage technology on the feedback front. We are in the process of redesigning FinCEN's entire website 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 website. The website is being redesigned to incorporate institution-specific information that is aimed at making finding compliance requirements and related information easier. I am excited about this project and hope to see it launch the first part of next year.

BSA Data and How We Use It

The last area I'd like to cover today before turning to your questions is to discuss how the government is using the BSA data filed by financial institutions. We understand that many in the financial industry have raised concerns about FinCEN balancing the value of the information we receive with the effort it takes for institutions to collect it. You've asked for feedback on this use and we have provided a growing number of statistics and case studies.

The information that you provide not only gives law enforcement, regulatory and intelligence agencies indicia of illicit activity, but it also provides data for identifying patterns, trends, vulnerabilities and compliance-related deficiencies, and for focusing law enforcement resources. I would like to spend a few minutes discussing the ways that BSA information is used by law enforcement every day:

Tip Off: Primarily with respect to SARs, but also sometimes with the other forms, the information provided can be the first tip that starts an investigation. An employee's good instincts can, and do, result in the contribution of critical information that serves to set investigatory wheels in motion to track down suspected criminal activity. For example, the IRS often says that Money Laundering is tax evasion in progress; BSA information can be the first lead into investigations that can recoup these funds and help to reduce the tax gap. Most people understand and expect these types of "lead" or "tip-off" usage, yet fail to appreciate the following, arguably broader uses of BSA data.

Identifying Information: When an investigation is already underway, the BSA information can add significant value by pointing to the identities of previously unknown subjects, exposing accounts and other hidden financial relationships, or unveiling items of identifying information like common addresses or phone numbers that connect seemingly unrelated individuals and, in some cases, even confirming locations of suspects at certain times. Law enforcement, again and again, confirms the reliability of the information in BSA reports which is a direct reflection of the diligence and training within institutions such as yours.

Trends: Law enforcement investigators, as well as FinCEN analysts, can use technology to examine the entire BSA information base more broadly. When expertly queried, the data un.masks trends and patterns that hold the tell-tale signs of criminal or terrorist networks and emerging threats. Hidden in the wealth of information, but easily revealed by skilled analysts with the right tools, are very reliable and credible reports of mortgage fraud, check fraud, identity theft, bribery, counterfeiting, insider abuse and other suspected crimes. This information can also be overlaid on a map to make apparent the geographic range of suspicious activity and allow law enforcement agencies to better allocate their limited resources for maximum effectiveness. We can only gain such insights with the aid of an entire database in which we see vulnerabilities invisible to individual institutions or perhaps seemingly innocuous in a single report.

Deterrence: The existence of BSA regulations has a deterrent effect on those who would abuse the financial system. The certainty of a CTR filing and the mere possibility of a SAR filing force criminals to behave in risky ways that expose them to scrutiny and capture. The least efficient way to transfer a large amount of money is using a suitcase full of cash. DEA and ICE interceptions of shipments of bulk cash on our borders and our highways continue to increase. This demonstrates that criminals fear detection if they use the U.S. financial system and are willing to take great risk to avoid its well-designed capability to detect illicit activity. In addition to the increased likelihood of discovery, it's a success of its own that our collective efforts make it more expensive, difficult and time consuming for illicit actors to realize the proceeds of crime or to raise funds for terrorist attacks.

Conclusion

In closing, I look forward to continuing this dialogue with you in the context of this conference and after today. Participating at events such as this one is essential to helping us carry out our mission at FinCEN and the Treasury Department. It is only through our collaborative efforts with you that we can create highly effective AML/CFT regimes, and all efforts that foster constructive dialogue between the public and private sectors contribute to our collective goals.

Thank you for your time. I believe I have time for a few of your questions.

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