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DELIVERED AT THE
AMERICAN ASSOCIATION OF RESIDENTIAL MORTGAGE REGULATORS
23RD ANNUAL REGULATORY CONFERENCE

BOSTON, MA
AUGUST 16, 2012

Good afternoon. I felt it was of critical importance for me to be here today, particularly considering the timing of your conference. On April 16 of this year, FinCEN's regulations requiring non-bank residential mortgage lenders and originators (RMLOs) to establish Anti-Money Laundering programs (AML) and file Suspicious Activity Reports (SARs)[1] went into effect. And the compliance deadline was just this Monday, August 13, 2012.

It is personally and professionally gratifying to see this regulatory effort come full circle – from the identification of the risks of criminal activity through FinCEN support to law enforcement and our own analysis; to the development and issuance of a proposal to close this regulatory gap that criminals could abuse; to the development of a final rule with the benefit of public comment and input; to the full implementation by industry starting this week.

I have spoken in the past about how we arrived at this point, and I encourage you to review my most recent speech outlining the regulatory progression of this rule.[2] But for our time here today, I would like to provide a brief overview, as well as discuss a few recent updates. And, because the end of

[1] See http://www.gpo.gov/fdsys/pkg/FR-2012-02-14/pdf/2012-3074.pdf.
[2] See http://www.fincen.gov/news_room/testimony/pdf/20120423.pdf.

the rulemaking process is the beginning of implementation, let me provide thoughts on the government/industry partnership going forward.

New Regulatory Requirements and the Risks They Target

One of the principles behind FinCEN's mission is a need for partnership between financial institutions and government to protect against the abuses of financial crime. FinCEN's regulations require vigilance, recordkeeping, and reporting, all for the purpose of protecting financial institutions and their customers against criminal abuse, making it harder to move criminal proceeds, and creating a money trail for FinCEN and law enforcement to follow. Concretely, our RMLO rules have two components: the requirement to establish an AML program and the requirement to file SARs.[3]

The AML program requirement for RMLOs promulgates what we refer to as "the four pillars." They are the "four pillars" of an AML program for a reason, as each one is critical to holding up the overall structure of the program. Without one, the others will fail. The pillars of an effective AML program are: (1) the development of internal policies, procedures, and controls; (2) designation of a compliance officer; (3) an ongoing employee training program; and (4) an independent audit function to test programs.[4] It would be difficult to expect effective, reliable SAR reporting without the pillars of an AML program firmly in place.

As with all of FinCEN's regulations requiring the establishment of AML programs, RMLOs are required to implement risk-based programs that take into account the unique risks associated with the RMLO's products and services, as well as the RMLO's size, market, and other issues. Thus, each AML program would necessarily be different than that of other businesses with different product, geographic and other risks. All of us here recognize that for RMLOs, one of the predominant risks of criminal activity is mortgage fraud. Therefore, under a risk-based approach, we would expect this to be an area of concentration in a new AML program.

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[3] The rulemaking did not alter other reporting or recordkeeping requirements under the Bank Secrecy Act. RMLOs are not defined as "financial institutions" under 31 CFR 1010.100(t) and are not required to file Currency Transaction Reports (CTRs), although RMLOs are subject to 31 CFR 1010.330, which requires the filing of a FinCEN Form 8300 for currency received in a non-financial trade or business. See 31 CFR 1010.310 and 330.
[4] See 31 U.S.C. § 5318(h).

I am proud to say that combatting fraud in the residential mortgage markets has been one of FinCEN's foremost priorities over the past six years. In fact, it was six years ago – before the financial crisis and the ensuing attention to this area – that FinCEN began its efforts to educate on the risks of fraud and efforts to mitigate this risk. In November 2006, FinCEN published on its Web site our first study dedicated entirely to mortgage loan fraud, summarizing vulnerabilities, characterizing types of fraud, and describing emerging schemes.[5] This analysis was based primarily on a ten year review of suspicious activity reporting by banks, which at the time had been trending up (and which dramatically increased thereafter with record filings in 2011). With the incredible demand for these unique insights, FinCEN continues to report quarterly on trends and patterns, with a particular focus on most recent changes in suspected fraudulent activity.

Law enforcement reaffirms time and again the value of SARs to their investigations of fraud. This includes the broadest variety of illegal activity in the residential mortgage market, as I will explain later in this speech from fraud in loan origination, to loan modification fraud, to reverse mortgages to short sales. In a comment letter supporting the development of these new regulations submitted by the Department of Housing and Urban Development-Office of Inspector General's (HUD-OIG) office, the former Acting Inspector General noted, "[o]ne vital weapon in the war on mortgage fraud has been FinCEN's regulation that requires banks to establish anti-money laundering programs and to file suspicious activity reports. Mortgage fraud SARs, when combined with other data, can provide critical leads for fraud investigations." [6]

The Notice of Proposed Rulemaking in which FinCEN proposed AML program and SAR filing requirements for RMLOs was highlighted in the first annual report of the Financial Fraud Enforcement Task Force (FFETF),[7] which supported this FinCEN rulemaking as a proactive step to mitigate fraud risks. The FFETF was established by President Obama in November 2009 to hold accountable those who helped bring about the last financial crisis, and to prevent another crisis from happening.[8] The FFETF is the broadest coalition of law enforcement, investigatory and regulatory agencies ever assembled to combat fraud. FinCEN has been very active in the FFETF

[5] See http://www.fincen.gov/news_room/rp/reports/pdf/MortgageLoanFraud.pdf.
[6] See http://www.regulations.gov/#!documentDetail;D=FINCEN-2010-0001-0004.
[7] See http://www.stopfraud.gov/docs/FFETF-Report-LR.pdf (page 4.10).
[8] See http://www.stopfraud.gov/news/news-11172009-01.html.

from proactive efforts such as this to participation in the many Working Groups investigating and prosecuting various types of fraud. I personally co-chair with Executive Office for United States Attorneys, one of the three FFETF Committees, the Training and Information Sharing Committee.

In addition to mortgage fraud, RMLOs must also be aware of other risks, in particular, that criminals may attempt to launder proceeds of crime by investing them in real estate. The SAR regulation for RMLOs requires reporting of suspicious activity, including but not limited to fraudulent attempts to obtain a mortgage or attempts at laundering money through the purchase of residential real estate. As I noted in a speech before the Mortgage Bankers Association,[9] FinCEN analysis has pointed to a potential relationship between mortgage fraud and other financial crime, and a FinCEN study in 2009 identified how financial crime runs through different financial industries,[10] with thousands of instances of persons suspected by banks of being involved in mortgage fraud, separately identified by a range of non-bank financial institutions in a variety of other suspected illegal activity from drug dealing to securities fraud. It is exactly because of this interconnectedness that FinCEN regulates such a broad range of financial institutions. Keep in mind that any way value can be intermediated may also be abused by criminals.

Particularly important for those persons and financial institutions new to FinCEN's regulatory framework, FinCEN has published multiple reports that address "red flags" related to the use of criminal proceeds in transactions involving residential and commercial real estate.[11] In FinCEN's 2008 report on the residential real estate industry, our analysis of SAR filings noted that in contrast to criminals seeking to profit by committing mortgage fraud, those who seek to launder money through residential real estate generally intend to make timely payments and seek to make their transactions appear as unremarkable as possible.[12] Money laundering involves concealing an illegal source of funds.

In the area of commercial real estate, FinCEN issued a fraud analysis advisory last year[13] that found that depository institution SAR reports

[9] See http://www.fincen.gov/news_room/speech/pdf/20090316.pdf.
[10] See http://www.fincen.gov/news_room/rp/files/mortgage_fraud.pdf.
[11] See http://www.fincen.gov/news_room/rp/files/MLR_Real_Estate_Industry_SAR_web.pdf and http://www.fincen.gov/news_room/rp/reports/pdf/CREassessment.pdf.
[12] See http://www.fincen.gov/news_room/nr/pdf/20080501.pdf.
[13] See http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2011-A007.pdf.

involving suspected crime in commercial real estate finance almost tripled between 2007 and 2010. Previously, FinCEN had released a report that studied fraud in commercial real estate finance over a three-year period[14] and an earlier analysis of the commercial real estate sector in 2006.[15]

FinCEN's Ongoing Dialogue with Industry

I recognize that industry is learning, and FinCEN also learns as a part of this process. As part of being a responsible regulator, over five years ago I committed to providing a review of rules after the first year of experience and making public our assessments.[16] From FinCEN's experience with the issuance of new AML program, SAR, and other regulations for businesses that previously had no such requirements (or those involving significant changes) FinCEN appreciates the value and importance of periodic reviews. We make public these reviews within 18 months of a regulation's effective date (basically representing a full year of experience and some time for analysis) – to ensure the efficient, fair, and balanced implementation of the new regulations. This also helps us develop a fair and effective approach to compliance examinations and the exercise of related enforcement authority.

March of this year marked the one year anniversary of the effective date upon which our rules and regulations were reorganized within a new Chapter X of Title 31 of the Code of Federal Regulations (CFR).[17] The reorganization streamlines FinCEN's regulations into general and industry-specific parts, making the regulatory obligations clearer in their structure, more consistent, and more accessible to affected financial institutions. RMLOs are the first new industry to have the advantage of this streamlined approach. FinCEN's broader review of the impact of the changes of Chapter X will be forthcoming in September.

FinCEN has been working to ensure awareness of regulatory requirements, which will in turn promote compliance. The degree of effective implementation by industry has a direct impact on the extent to which we achieve the intended law enforcement objectives.

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[14] See http://www.fincen.gov/news_room/rp/files/Commercial%20Real%20Estate%20Financing%20Fraud%20FINAL%20508.pdf.

[15] See http://www.fincen.gov/news_room/rp/reports/pdf/CREassessment.pdf.

[16] See http://www.fincen.gov/statutes_regs/bsa/bsa_effectiveness.html.

[17] See http://www.fincen.gov/news_room/nr/pdf/20110301.pdf.

I am confident that all of us – from industry, government authorities, and the general public – will agree with the goal of combating fraud in the mortgage markets while facilitating the recovery of legitimate economic activity. Regulations without appropriate guidance to the industry could have negative consequences, including a misallocation of resources. A lack of guidance may create a false sense of compliance, or even put "good" actors that try to comply at a disadvantage to those that ignore obligations. The problem could be magnified if resources are stretched thin. The problem is one that we are mindful of, and was a factor in our decision to pursue an incremental approach as we tailored the regulations to RMLOs as a subset of the "loan and finance" category for regulatory requirements created by Congress.

FinCEN believes that much of the effort necessary for RMLOs to meet these regulatory obligations, including information gathering, will be accomplished through business operations already undertaken as part of normal transaction negotiation, completion of required Federal forms and disclosures, and due diligence and review of property and collateral. As emphasized in our rulemaking, FinCEN believes RMLOs will assume a crucial role in government and industry efforts to protect consumers, mortgage finance businesses, and the U. S. financial system from mortgage fraud, money laundering, and other financial crimes.

Another way we at FinCEN continue to learn is through direct outreach to industry.[18] FinCEN initiated an outreach effort in 2008 with representatives from a variety of industries that fall under our regulatory requirements, beginning with large depository institutions.[19] In 2009, FinCEN conducted outreach to some of the nation's largest money services businesses.[20] Our outreach turned in 2010 to depository institutions with assets under $5 billion,[21] and in 2011 FinCEN hosted two town hall meetings with representatives from the prepaid access industry.[22]

FinCEN is unique among the Federal financial regulators, as we do not directly examine for compliance and, therefore, do not have the same kind of day-to-day interaction as do other regulators with the financial institutions

[18] See http://www.fincen.gov/news_room/rp/financial_institutions_outreach_initiative.html.
[19] See http://www.fincen.gov/news_room/rp/reports/pdf/Bank_Report.pdf.
[20] See http://www.fincen.gov/pdf/Financial%20Inst%20Outreach%20Init%20MSB_final.pdf.
[21] See http://www.fincen.gov/news_room/rp/reports/pdf/Banks_Under_$5B_Report.pdf.
[22] See http://www.fincen.gov/news_room/rp/reports/pdf/Banks_Under_$5B_Report.pdf.

that fall under our purview. Hence, I am pleased to say that, as part of this ongoing commitment to industry dialogue, FinCEN anticipates holding outreach meetings with this sector after we all gain a little experience. We expect this may be similar to the outreach we conducted with the prepaid industry last year, through a series of town halls at our headquarters.[23]

Practical Steps to Facilitate Effective Implementation

With the compliance date upon us, FinCEN issued this Monday a Notice to RMLOs designed, in part, to be a reminder of the new obligations.[24] In addition to being a reminder, the Notice is intended to create a consolidated resource to RMLOs, where they are directed to a variety of resources on new and continuing FinCEN obligations. Also on Monday, FinCEN published a Webinar for RMLOs that will discuss the AML and SAR requirements and assist industry with their compliance efforts. [25]

Today, FinCEN is also issuing an Advisory highlighting various types of mortgage fraud and providing potential red flag indicators of illicit activity to help RMLOs identify and report suspicious activity.[26]

In addition, FinCEN's Web site is a key source for information available to both regulators and RMLOs. FinCEN has created a page under the "Financial Institutions" link specifically for mortgage companies and brokers.[27] This tab on our Web site is intended to be a comprehensive collection of information and guidance for this industry. In addition, links are available to capture the numerous studies and data available to the public.[28]

To help the mortgage industry stay informed of regulatory developments, FinCEN has just created an additional category within FinCEN Updates – FinCEN's e-mail subscription management service designed to keep the financial industry, the media, and the public informed of news, rulemakings, advisories, and other developments at FinCEN. If you are not already signed up to receive automatic e-mail updates concerning mortgage

[23] See http://www.fincen.gov/whatsnew/pdf/Outreach_to_the_Prepaid_Industry2_508.pdf.
[24] See http://www.fincen.gov/whatsnew/html/20120813.html.
[25] See http://treas.yorkcast.com/webcast/Viewer/?peid=3f611ea6899341cd8917a1e49b94616e1d.
[26] See http://www.fincen.gov/statutes_regs/guidance/html/FIN-2012-A009.html.
[27] See http://www.fincen.gov/financial_institutions/lfc/.
[28] See http://www.fincen.gov/news_room/rp/mortgagefraud.html.

companies and brokers posted to FinCEN's Web site, I encourage you to do so.[29]

In addition to education about risks and regulatory requirements, a fundamental component of any regulatory framework for the financial industry is the supervisory approach to ensure compliance. Naturally, with the rule now finalized, and with compliance required as of August 13, questions will turn toward how FinCEN will approach issues surrounding examination. Included as part of the Fiscal Year 2013 budget proposal, the Administration proposes a legislative amendment to FinCEN's statutory authorities that would allow for reliance on examinations conducted by a State supervisory agency for categories of institutions not subject to a Federal functional regulator.[30] This would capture most non-bank financial institutions currently subject to IRS examination as delegated by FinCEN by regulation and a Memorandum of Understanding. With respect to RMLOs, we are exploring opportunities to work with State regulators, and if Congress agrees, FinCEN will be able to pursue a new level of cooperation with the States on examination issues.

On the topic of partnering with the States, we appreciate the support of AARMR and the Conference of State Bank Supervisors, who confirmed in their public comment letter that they will work with FinCEN on facilitating our work with the States.[31]

FinCEN is working with AARMR and others to develop an examination manual, following a period of intelligence gathering and feedback from the field to ensure accuracy, applicability, and longevity of such guidance. FinCEN has had great success with other financial institution sectors, working closely with our State and Federal regulatory counterparts on examination manuals, for banks and credit unions,[32] and for money services businesses.[33] The manuals provide current and consistent guidance on risk-based policies, procedures, and controls for Federal and State examiners, and, because we make these manuals public, they serve as valuable guidance for the regulated industries as well. While the manual for RMLOs is still

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[29] See https://public.govdelivery.com/accounts/USFINCEN/subscriber/new.
[30] See http://www.treasury.gov/about/budget-performance/Documents/8%20-%20FY%202013%20FinCEN%20CJ.pdf (pages 4, 8-9, 11-12, 14).
[31] See http://www.regulations.gov/#!documentDetail;D=FINCEN-2010-0001-0011.1.
[32] See http://www.ffiec.gov/bsa_aml_infobase/pages_manual/manual_online.htm.
[33] See http://www.fincen.gov/news_room/rp/files/MSB_Exam_Manual.pdf.

being prepared, AARMR and the CSBS, under the Multi-State Mortgage Committee, have released an examination manual last month that should prove helpful to examiners and RMLOs, particularly the fraud module section.[34]

Enforcement Philosophy

Manuals promote uniformity of examination and consistency across different examiners at the Federal and State level. Notwithstanding the delegation of authority and collaboration with other financial supervisors, FinCEN retains authority for enforcement and compliance, including coordination and direction of procedures and activities of all other agencies exercising delegated authority. Particularly with respect to enforcement actions merited in cases of noncompliance, FinCEN closely coordinates with other financial supervisors, but retains independent authority to impose civil money penalties for violations.

I very much appreciated the discussion at this conference yesterday regarding enforcement actions by the Multi-State Mortgage Committee in the context of Multistate Mortgage Examinations, some of which is reflected in the Investigation, Enforcement, and Criminal Referral section of their examination manual. We at FinCEN completely agree with the positions expressed by the state regulators that in cases of noncompliance, that corrective action, ongoing third party supervision, and also civil money penalties are critical parts of the compliance and enforcement toolbox that must be exercised when appropriate.

Again, we must recognize that the purpose of FinCEN's regulations is to mitigate the risks of fraud, money laundering, and other financial crimes. It is one thing to have rules in place, but the most important component is effective implementation. When an institution fails to uphold its compliance obligations, this creates a vulnerability—a crack in the foundation upon which our defenses against criminal abuse are built. Hence, in any regulatory framework, but certainly in the AML/CFT area, it is essential that compliance expectations be backed by a credible enforcement mechanism, which in FinCEN's case means the imposition of civil money penalties. Not only does this hold accountable those regulated institutions which have not

[34] See http://www.csbs.org/regulatory/policy/policy-guidelines/Documents/MMCExamManual-Published.pdf.

followed the rules, but it is only fair to the financial institutions that are trying hard to implement credible AML/CFT controls, including bearing the responsibilities associated with these controls.

Let me reiterate for you the enforcement philosophy that I have previously expressed in other contexts of FinCEN's regulations, particularly relevant to those new to this area: "I believe that when institutions do not follow the rules, steps must be taken to hold them accountable. *I also believe that compliance actions, including enforcement penalties, also serve as a type of feedback to the financial industry about regulatory expectations.* Effective feedback which the financial industry can evaluate and understand, however, requires the sharing of information about the underlying compliance deficiencies. … Increasingly as FinCEN expands its AML/CFT regulations to new types of entities that are not historically as highly regulated as banks, I expect that enforcement actions will increasingly become a part of the regulatory framework. I emphasize once again that in sharing appropriate information, regulatory enforcement actions can provide an important type of feedback to regulated institutions."[35]

Equally important with respect to messaging, let me assure you that FinCEN will not act within a vacuum, but looks forward to coordinating closely with our State regulatory counterparts, most particularly the members of AARMR, whenever appropriate in considering civil money penalties. In many States, the regulatory authority over mortgage lenders and originators is housed within the same authority that also supervises other financial institutions, such as banks and money services businesses also subject to FinCEN regulation, and we have a strong track record of FinCEN-State regulator cooperation for those sectors. As an example, let me cite from a speech I gave last year at the Money Transmitter Regulators Association as relevant to enforcement actions: "I would also like to underscore that from its inception, we at FinCEN sought to partner with our state regulatory counterparts that license money transmitters, to enforce our complementary regulations."[36] I hope you agree that the discussions at this conference in the first week of full compliance by RMLOs are strong evidence that we are off to a similar great start of partnership between FinCEN and the State regulators.

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[35] See Prepared Remarks of FinCEN Director Freis before the Association of Mexican Banks, Mexico City (September 29, 2011) at 8 - 9, http://www.fincen.gov/news_room/testimony/pdf/20110929.pdf.
[36] See Remarks of FinCEN Director Freis before the Money Transmitter Regulators Association 2011 Annual Conference, Jacksonville, Florida (October 5, 2011) at 7, http://www.fincen.gov/news_room/speech/pdf/20111005.pdf.

Getting Help and Answering Questions

Whether for industry representatives or our partner regulators, FinCEN's Regulatory Helpline is a valuable resource available to assist with your questions. FinCEN team members may be reached toll-free at (800)-949-2732. We've already received more than 100 non-bank mortgage-related inquiries since last September, including questions such as: "Am I a residential mortgage lender or originator covered by these rules? What are the AML program requirements and how do I set up such a program? What reports do I file? What version of the SAR do I need to use?" These questions are important to us, and beyond just providing individual responses, we monitor questions to help shape our continued guidance to regulated institutions.

Based on the question regarding SAR filing, FinCEN included information in the Notice published Monday clarifying that the while the current E-Filing template does not include a drop-down option for RMLO filers to designate their institution type, this option will be added to the next iteration of the FinCEN SAR. Additional details for filers on how to identify themselves as RMLOs are provided in the Notice.

RMLOs are also fortunate to be the first regulated industry sector from their initial compliance date to benefit from a range of improvements we have undertaken to facilitate the regulatory reporting framework, which predating the establishment of FinCEN, was based on paper. Now, with the implementation of E-Filing, we have all but caught up to the electronic age. Beginning July 1, 2012, almost all FinCEN reports must be filed electronically.[37] Surely this is well appreciated in the real estate industry, where increasingly documentation is created, shared, and stored electronically. Electronic filing makes sense from every perspective. Both the government and the filer save time and money. Additional information is available on FinCEN's Web site to assist with any questions you may have about E-Filing.[38]

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[37] See http://www.fincen.gov/news_room/nr/html/20120223.html; and http://www.fincen.gov/whatsnew/html/20120221.html ("FinCEN Form 8300, Report of Cash Payments Over $10,000 Received in a Trade or Business, may also continue to be filed on paper.").

[38] To enroll for electronic filing, see http://bsaefiling.fincen.treas.gov/main.html. FinCEN has released a brochure highlighting the benefits of E-Filing, available at: http://www.fincen.gov/whatsnew/pdf/E-File_Brochure.pdf, and an instructional presentation on E-Filing, available at: http://treas.yorkcast.com/webcast/Viewer/?peid=a93e7d2b1a07427a93b0cf2e764a57421d.

Moving from the logistics of reporting to the substance, in FinCEN's experience with all industries, some of the most common questions we receive from financial institutions concern the standard for filing a SAR. First, remember that "suspicion" would trigger a SAR filing obligation. It is the industry's obligation to get this information to FinCEN, and FinCEN – with law enforcement – uses this information in a variety of ways. In some cases, a SAR that is filed can be the ***first tip*** that starts an investigation. SARs also assist in ***ongoing investigations***, by pointing to the identities of previously unknown subjects, exposing accounts and other hidden financial relationships, unveiling items of identifying information – such as common addresses or phone numbers – that connect seemingly unrelated individuals, and in some cases even confirming locations of suspects at certain times. SARs also help FinCEN analysts ***unmask trends and patterns*** that hold the tell-tale signs of criminal or terrorist networks and emerging threats. Finally, the very existence of regulations has a ***deterrent effect*** on those who would abuse the financial system.

Keep in mind that a single institution will have in most instances only limited insight into a person's possible criminal behavior. Only when we pull together multiple reports from a range of filing institutions, and combine them with a range of other public and non-public information, can we "connect the dots." For example, this often is how we tell the difference between fraud for profit and fraud for housing, or in cases of identity theft the difference between perpetrator and victim. The most simple, but also the most fundamental point to remember when you complete a SAR – include the "Who, What, When, Where and How." And never forget the "Why." We rely on you as professionals to know your industry and what is normal behavior; we need your explanation of why something appears suspicious to you.

As part of the advisory I previously mentioned that FinCEN is issuing today highlighting various types of mortgage fraud and potential red flag indicators, there is one additional thing I would like to call to your attention. We ask that financial institutions filing a SAR include, where available, the "NMLS Unique Identifier" assigned by the Conference of State Bank Supervisors' (CSBS) National Mortgage Licensing System and Registry (NMLS). As required by Section 1503 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act), a NMLS unique identifier is permanently assigned to each State-licensed or Federally registered mortgage loan originator (MLO), as well as each company, branch, and control person that maintains a single account in NMLS. The value of the NMLS Unique Identifier has been recognized by the Federal Housing Finance Agency (FHFA) and HUD. Both Federal agencies require that any loan purchased or securitized by Fannie Mae and Freddie Mac, or submitted for insurance by the Federal Housing Administration (FHA), must include the NMLS Unique Identifier for the company and individual MLO that originated the mortgage loan. The NMLS unique identifier will provide a critical piece of information as FinCEN works with our regulatory and law enforcement partners both in terms of determining trends and patterns of fraud or other financial crimes, as well as in pursuing individual cases from origination through the secondary markets.

Additional Regulatory Steps in the Mortgage Markets

Government-Sponsored Enterprises (GSEs)

Now let me turn briefly to mention additional regulatory steps FinCEN has been taking to protect the integrity of the residential mortgage markets. FinCEN has issued proposed rules that would require GSEs – Fannie Mae, Freddie Mac and the Federal Home Loan Banks – to implement AML programs and file SARs with FinCEN.[39] The GSEs currently file fraud reports with their prudential Federal regulator, the Federal Housing Finance Agency (FHFA), which then files SARs with FinCEN when the facts in a particular fraud report warrant a SAR under FinCEN's reporting standards.

The proposal would require the GSEs to file SARs directly with FinCEN, which will help streamline the reporting process, provide law enforcement with quicker access to data about potential fraud and other financial crimes affecting the secondary mortgage markets, and result in the reporting of a wider range of suspected financial crimes.[40] The FHFA's Office of Inspector General (OIG) and other Federal agencies expressed support for the proposal. The FHFA's OIG noted that the proposal would yield better investigative information.[41] The FFETF Mortgage Fraud Working Group also voiced its support for the proposal, noting that it would streamline the SAR process, and provide law enforcement agencies with "quicker access to critical information necessary to prevent, investigate, and prosecute

[39] See http://www.fincen.gov/news_room/nr/html/20111103.html.
[40] See http://www.gpo.gov/fdsys/pkg/FR-2011-11-08/pdf/2011-28820.pdf.
[41] See http://www.regulations.gov/#!documentDetail;D=FINCEN-2011-0004-0004.

mortgage fraud."[42] FinCEN carefully reviewed the public comments filed after the publication of the proposed rules,[43] and is coordinating with the FHFA, and is now completing its proposal for final regulations for the GSEs**.**

Title and Escrow Report

As a further step in our ongoing efforts to address vulnerabilities in the residential real estate markets, FinCEN last month released its first targeted study of suspicious activity involving real estate title and escrow businesses.[44] The study identified thousands of instances where financial institutions, particularly banks and money services businesses (MSBs), filed SARs involving title and escrow companies, often in connection with mortgage fraud.[45] This first baseline study will help inform our ongoing efforts to identify regulatory gaps that criminals could look to exploit.

Just this past weekend, at the National Association of Insurance Commissioners (NAIC) national meeting, I discussed with state insurance commissioners from around the country how we can work together to more efficiently and effectively address those gaps and mitigate those risks through public awareness, support to law enforcement, or appropriate regulatory action. FinCEN's Title and Escrow report was a major topic of discussion in the NAIC meetings of the Title Insurance Task Force. We at FinCEN look forward to the continued engagement of our State regulatory partners to deepen our understanding of the fraud and money laundering risks involving title and escrow companies, as well as potential ways to help mitigate those risks.

FinCEN's Support to Law Enforcement in Combatting Mortgage Fraud

I would now like to discuss how FinCEN partners with the law enforcement community in its effort to combat fraud in the mortgage industry. This past

[42] See http://www.regulations.gov/#!documentDetail;D=FINCEN-2011-0004-0005.
[43] See http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR%252BPS;rpp=25;so=ASC;sb=docId;po=0;D=FINCEN-2011-0004.
[44] See http://www.fincen.gov/news_room/rp/files/Title_and_Escrow_508.pdf.
[45] See http://www.fincen.gov/whatsnew/pdf/20120711.pdf.

June, the FFETF released its first annual report.[46] To summarize directly from the report:

> "Increased efforts to combat mortgage fraud have seen dramatic enforcement results. In the first year of the Task Force, the number of mortgage fraud defendants charged by U.S. Attorneys' Offices has more than doubled from 526 in fiscal year 2009, to 1,235 in fiscal year 2010. There was a similar increase in the number of mortgage fraud cases charged, going from 267 in fiscal year 2009 to 656 in fiscal year 2010. And the emphasis on firm sentences for mortgage fraud followed the same trend for 2010, with a near doubling of the number of defendants sentenced to more than two, three and five years in prison."[47]

And the FBI Financial Crimes Report for 2011 states:

"Through FY 2011, FBI investigations resulted in 1,223 informations and indictments and 1,082 convictions of mortgage fraud criminals. The following notable statistical accomplishments are reflective in FY 2011 for mortgage fraud: $1.38 billion in restitutions; $116.3 million in fines; seizures valued at $15.7 million; and $7.33 million in forfeitures."[48]

The Administration has recently launched two new working groups under FFETF to highlight the importance of fighting consumer fraud, as well as frauds encountered by struggling homeowners. In January and February of this year, Attorney General Holder announced the formation of the Residential Mortgage-Backed Securities Working Group and the Consumer Protection Working Group.[49]

The Residential Mortgage-Backed Securities Working Group, formed at the direction of the President, brings together the Department of Justice, other Federal agencies and specific subcomponents, including FinCEN, and several State attorneys general to investigate those responsible for

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[46] See http://www.stopfraud.gov/docs/FFETF-Report-LR.pdf.
[47] See http://www.stopfraud.gov/docs/FFETF-Report-LR.pdf (page 3.5).
[48] See http://www.fbi.gov/stats-services/publications/financial-crimes-report-2010-2011/financial-crimes-report-2010-2011#Mortgage.
[49] See http://www.stopfraud.gov/iso/opa/stopfraud/2012/12-ag-120.html and http://www.justice.gov/opa/pr/2012/February/12-ag-200.html.

misconduct contributing to the financial crisis through the pooling of residential mortgages and the sale of residential mortgage-backed securities.[50]

The Attorney General spoke in March at the second meeting of the Consumer Protection Working Group Summit, where members discussed strategies for enhancing civil and criminal enforcement of consumer fraud crimes, and discussed raising public awareness about fraud schemes.[51] FinCEN is honored to be an active participant in both groups.

Also, in February, the Departments of Justice and Housing and Urban Development, other agencies, and 49 State attorneys general came together to achieve a landmark $25 billion agreement with the nation's top five mortgage servicers – the largest joint Federal-State settlement on record.[52] As the Attorney General noted in his remarks before the National Association of Attorneys General spring meeting, "this settlement will provide significant assistance to struggling homeowners and communities – and to those who lost their homes due to unfair and improper mortgage practices."[53]

On the investigative front, FinCEN has assisted the HUD-OIG on FHA-insured mortgage fraud cases. In February, a group of mortgage fraud conspirators in Georgia were sentenced on multiple charges relating to a home equity conversion ("reverse mortgage") scheme targeting the elderly.[54] Their considerable prison terms ranged from 30-151 months. And this past November in Miami, a loan officer and title agent were sentenced to significant prison terms, including a five-year sentence for the title agent, for their role in a $2.5 million reverse mortgage and loan modification scheme.[55] These lengthy, high-impact prison terms demonstrate that mortgage fraud is a crime taken seriously by all those involved – beginning with financial institutions that report the activity, and all the way through to FinCEN, investigative agencies, prosecutors, and the courts.

Law enforcement authorities also used FinCEN reports extensively in an investigation that involved a large-scale mortgage fraud scheme resulting in

[50] See http://www.justice.gov/ag/residential-mortgage-backed-securities.pdf.
[51] See http://www.stopfraud.gov/iso/opa/ag/speeches/2012/ag-speech-120309.html.
[52] See http://www.justice.gov/opa/pr/2012/February/12-ag-186.html.
[53] See http://www.justice.gov/iso/opa/ag/speeches/2012/ag-speech-120306.html.
[54] See http://www.stopfraud.gov/iso/opa/stopfraud/GAN-1202231.html.
[55] See http://www.justice.gov/usao/fls/PressReleases/111103-02.html.

major financial losses and numerous foreclosures. Investigators queried FinCEN data and found multiple SARs. The SARs assisted law enforcement in obtaining search warrants and led to multiple interviews with borrowers. Federal and local authorities arrested more than a dozen individuals linked to mortgage fraud schemes that involved the filing of fraudulent loan applications with several banks and other lenders, generated millions of dollars in loan fees and real estate commissions, and caused millions of dollars in losses when homes went into foreclosure.

Two separate indictments outlined schemes in which real estate professionals prepared mortgage applications that contained false information about borrowers' income, employment, assets, and intent to occupy the properties. In the first case, investigators estimated that the conspiracy was responsible for banks funding at least $25 million in mortgages. In the second case, authorities believe that banks funded at least $10 million in mortgages based on fraudulent loan applications. FinCEN supported this investigation through its independent work and through its collaborations with the FFETF.[56]

As a participant in the Federal loan modification and foreclosure rescue fraud initiative, FinCEN has supported more than 150 mortgage fraud cases with over 1,200 subjects and has disseminated more than 190 analytical reports since April 2009.

And in addition to supporting investigations of mortgage loan fraud and loan modification fraud, FinCEN provides analytical support for a wide range of other cases pursued by Federal, State, and local law enforcement agencies and other authorities. FinCEN analysts also support U.S. Attorneys' Offices, as well as regional Mortgage Fraud Task Forces, by providing ***strategic*** information on mortgage fraud hotspots within local jurisdictions. FinCEN assists the Executive Office for United States Attorneys in identifying areas in greatest need of additional resources for combating mortgage fraud, by identifying areas with high concentrations of suspected fraud.

Information provided by financial institutions on SARs related to mortgage fraud continues to yield investigative and enforcement dividends.[57] For

[56] See http://www.fincen.gov/news_room/rp/files/annual_report_fy2011.pdf (page 43).
[57] See http://www.fincen.gov/news_room/rp/files/annual_report_fy2011.pdf (pages 36-39).

example, a former Federal agent was found guilty at trial on various charges related to the purchase of real estate. The former agent allegedly fabricated information provided to financial institutions regarding his position and income. The case began when a Federal analyst was proactively examining SARs in connection with mortgage loan fraud investigations and recognized the subject of a SAR as a current Federal agent.

The SAR narrative indicated that the defendant provided the filer with fraudulent statements concerning income and employment when applying for a mortgage loan. The institution claimed a loss of more than $200,000. According to subsequent SARs, the defendant claimed to be an executive of a company that did not exist. Other SARs on the defendant pointed to suspected mortgage fraud, bank fraud, and wire transfer fraud. According law enforcement officials investigating the case, the defendant's criminal activity could have gone undetected without the information that was made available in the SARs.[58]

In addition, FinCEN collaborated with the HUD-OIG to compare data within the FHA's mortgage database, the Single Family Data Warehouse (SFDW), with mortgage loan fraud (MLF) SARs filed over a period of several years. FinCEN reviewed loan default claims and reverse mortgage data on borrowers and appraisers of FHA insured loans, identified related MLF SARs, and provided analysis to assist in law enforcement efforts by various Federal and State agencies. In addition to using FHA's mortgage database, FinCEN is also working with AARMR and CSBS to obtain information from the Nationwide Mortgage Licensing System (NMLS). Looking forward, this data will be an integral part in enhancing FinCEN's database, providing greater opportunity for regulators and law enforcement to combat various mortgage frauds.

Analytical products were developed for 11 States and 15 metropolitan areas in support of the FFETF and other efforts. This demonstrated to law enforcement how the analysis of combined data sets from different agencies could increase the value of the data and allow agencies to quickly detect mortgage fraud and help protect the FHA program from scammers. FinCEN, HUD-OIG and the U.S. Secret Service formed the Suspicious Mortgage Activity Review and Targeting (SMART) Team in 2010 to continue identifying targets in specific metro areas using this strategy.

[58] See http://www.fincen.gov/news_room/rp/files/annual_report_fy2011.pdf (page 45).

In addition to collaborating with our law enforcement partners on investigations, FinCEN also works with our counterparts to highlight new fraud schemes. The October 2011 edition of FinCEN's *SAR Activity Review – Trends, Tips, and Issues*, featured an article on bankruptcy-related mortgage fraud and mortgage rescue scams.[59] The article was written by a representative of the Executive Office for United States Trustees, in consultation with FinCEN, the FBI, and the HUD-OIG.

Lastly, FinCEN continues to review and report on home equity conversion/reverse mortgage fraud, issuing an Advisory to financial institutions that highlights "red flags" and encourages reporting of this activity.[60]

Conclusions

I hope this overview has helped you better understand how all of our efforts – from the private sector and the government regulatory and law enforcement sides – are needed, and are making a difference in our shared objective of combatting fraud in the residential mortgage markets. This has been a top priority for me and for FinCEN over the past six years. Perhaps FinCEN's greatest success has been to proactively bring together all these diverse elements from individual criminal cases, as well as from different types of financial institutions and their regulators. And we continue to learn and leverage our insights with the industry and government partners at the Federal, State, and local levels.

The SAR Activity Reviews, MLF SAR Reports, and other statistical reports issued by FinCEN have bolstered the strategic analyses of our law enforcement and regulatory partners; our reports have enhanced their efforts to allocate investigative and enforcement related resources to areas where such resources may be most effectively deployed. Our broad based assistance to law enforcement and regulatory agencies has been critical in prioritizing FinCEN's efforts to areas of greatest impact, especially FinCEN's ongoing analysis of how best to fill "regulatory gaps," including the development of new AML program, SAR, and other regulations that

[59] See http://www.fincen.gov/news_room/rp/files/sar_tti_20.pdf (pages 55-62).
[60] See http://www.fincen.gov/statutes_regs/guidance/pdf/fin-2010-a005.pdf.

target additional businesses and professions vulnerable to money laundering, fraud, and other financial crimes.

Any way that money can be moved, any way that funds can be intermediated, can indeed be abused by criminal actors. One of my goals over the past several years has been to promote greater consistency in our regulatory approach across different industry sectors in an attempt to mitigate the risks of money laundering, terrorist financing, and other financial crimes. We must attempt to ensure that the financial pathways criminals may take into the financial system are stymied, and that the relevant financial trails are available for FinCEN and law enforcement to follow. The full compliance beginning this week represents an important milestone for RMLOs to carry out obligations similar to banks involved in residential mortgage lending.

Thank you for your partnership in protecting our financial system.

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