



**Prepared Remarks of
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Good afternoon. I think this conference – which brings together financial institutions, law enforcement and regulators – is a perfect forum for us to have a productive discussion on the work we are doing at the Financial Crimes Enforcement Network – known as FinCEN, as well as the value to FinCEN – and our law enforcement and regulatory partners – of the data reported under FinCEN’s regulations implementing the Bank Secrecy Act, or BSA.

I know before lunch you heard from others about how Suspicious Activity Reports play an important role in their efforts. I think their remarks have set me up nicely to speak a bit more broadly about how SARs – and the other data reported under the BSA – are important to our common goal of safeguarding the financial system.

FinCEN overview

FinCEN was established just over 21 years ago to combat money laundering, track illicit finance, and serve as a nexus for information gathering and sharing among Federal, State, and local law enforcement agencies.

This responsibility is still at the core of FinCEN’s operations. But just as financial criminals adapt their tactics to evade detection, FinCEN’s mission must continue to evolve, and our focus now includes new responsibilities to help combat terrorist financing, fraud, and other increasingly sophisticated financial crimes.

As many of you know, FinCEN administers the BSA, the nation’s first and most comprehensive Federal anti-money laundering (AML) and counter-terrorism financing statute. In brief, the BSA authorizes the Secretary of the Treasury to issue regulations requiring banks and other financial institutions to take a number of precautions against financial crime, including the establishment of AML programs, and “to require certain reports or records where they have a high degree of usefulness in criminal, tax, or regulatory investigations and proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.” The Secretary of the Treasury has delegated administration of the BSA to FinCEN.

The key to everything we do is *sharing* the extremely valuable information that financial institutions provide to us. As part of our responsibility, FinCEN oversees the maintenance of a database with approximately 180 million records of financial transactions and other reports filed by financial institutions like yours. This data represents the most broadly relied upon and largest source of financial intelligence available to law enforcement.

In addition to collecting, analyzing, securing, and disseminating the BSA data to our law enforcement and regulatory partners, FinCEN itself is also a financial institution regulator. We have the challenging but important task of writing and coordinating the enforcement of AML rules for over 100,000 banks, credit unions, money services businesses (MSBs), insurance companies, securities brokers, casinos, mutual funds, precious metal dealers, and other financial institutions that face the risk of being used by criminals to support enterprises ranging from drug cartels, mortgage fraud rings, terrorist finance networks, immigrant smuggling, and much more.

Given the scope of FinCEN's mission, people are often surprised to learn that our workforce is only comprised of slightly over 300 employees. Our dedicated team includes analysts that study and research the BSA data to support law enforcement – both domestically and internationally; regulatory experts developing guidance for the financial industry; and IT specialists building systems to ensure the BSA information your institutions file is readily accessible to our law enforcement and regulatory partners.

Feedback on the Use and Usefulness of BSA Data

Last year, FinCEN undertook an outreach initiative to smaller depository institutions all over the country to hear about how these institutions implement their anti-money laundering programs, including unique challenges faced by institutions across this asset class and where additional guidance from FinCEN could be helpful. These meetings built upon FinCEN's previous outreach with large depository institutions in 2008, followed in 2009 by meetings with some of the nation's largest money services businesses.

In addition to on-site meetings with 18 depository institutions in 13 states, FinCEN staff also held town hall style meetings in both Chicago, Illinois and Eden Prairie, Minnesota, where we engaged with more than 40 different institutions.

Based on the number of institutions that expressed an interest in meeting at FinCEN's offices, FinCEN invited a number of them to participate in two town hall meetings hosted at FinCEN's offices in suburban Washington, D.C. A total of four institutions from Virginia participated in the FinCEN town hall meetings – two of which are actually attending the conference today.

The one common theme that arose during these meetings was about the use and usefulness of the BSA information reported to FinCEN. Most notably the Currency Transaction Report (CTR) – filed for each deposit, withdrawal, exchange of currency or other payment or transfer by, through, or to an institution that involves a transaction in currency of more than \$10,000, and the SAR – the form upon which institutions report suspicious transactions exceeding \$5,000.

This question of the use and usefulness of the data has been, and may always be, the most common and prominent question raised by regulated financial institutions, of all sizes and across all financial industry sectors. With that in mind, I would like to spend a moment talking about how FinCEN – and others – are using this data that is entrusted to us by your institutions.

Tip Off: Primarily with respect to a SAR, but also sometimes with a CTR, the BSA information provided can be the first tip that starts an investigation. A financial institution 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. Most people understand and expect this 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 unmask 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 a large database in which we see vulnerabilities invisible to individual institutions or perhaps seemingly innocuous in a single report.

Deterrence: The very 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.

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. The definitive CTR threshold forces criminals to structure their transaction which, in turn, exposes them to a SAR filing. CTRs and SARs are complementary forms that together create an intimidating criminal trap. In addition to the increased likelihood of discovery, it's a success of its own that our collective efforts make it more difficult and time consuming for illicit actors to realize the proceeds of crime or raise funds for terrorist attacks.

In summary, information reported to FinCEN under the BSA can – and does – play an important role in different ways that contribute to the success of many law enforcement investigations. With that in mind, I'd like to take a minute to share with you more specifics about how FinCEN engages with its law enforcement and regulatory partners in Virginia.

Who is Using the BSA Data?

As you've heard today, the United States Attorney's Offices are active users of the BSA data to support their investigations. FinCEN has 86 MOUs in place with U.S. Attorney's Offices all around the country to enable them to access the BSA data to support their prosecutions of criminals. There are currently more than 11,500 active users of the BSA data around the country at all levels of the law enforcement and regulatory community.

In addition to those who can access the BSA data remotely, FinCEN also opens its doors to law enforcement agencies who wish to come to our office to access the BSA data. Our Platform Program provides onsite access to FinCEN systems for designated personnel in the Washington, D.C. area who are conducting research for their agency's investigations. Currently, 41 Federal law enforcement agencies participate in this program.

FinCEN's systems also provide us with alerts when more than one agency is researching the same subject within the BSA data. Last year alone, FinCEN networked agencies together more than 1,000 times by contacting investigative personnel in the respective agencies and providing them contact information for other agency personnel. Networking can help law enforcement by facilitating information sharing, avoiding potential negative impacts on other cases, and maximizing resources. Our networking capabilities are also enhanced by the fact that FinCEN has representatives working on-site from 12 different Federal law enforcement and regulatory agencies.

FinCEN also provides direct analytical support to law enforcement efforts across the state of Virginia, and conducts strategic analysis based on studying the BSA information. The focus of much of our work in this area has been on mortgage loan fraud.

Just this morning, FinCEN issued its Mortgage Loan Fraud (MLF) analysis for the first quarter of 2011, which found that the number of MLF suspicious activity reports (SARs) rose to 25,485, up 31 percent from 19,420 in the first quarter of 2010. Our analysis attributes the increase to large mortgage lenders conducting additional reviews after receiving demands to repurchase poorly performing mortgage loans. In the 2011 first quarter, 86 percent of MLF SARs reported activities which occurred more than two years prior to the filing of the SARs.

Our analysis also found that for the first quarter of 2011, Fairfax, Virginia now ranks 7th in the country – per capita – for number of reported mortgage fraud subjects, up from 18th in the last quarter of 2010.

How the BSA data is used in Virginia

Law enforcement and regulatory officials in Virginia are very active users of BSA information. In addition to our Federal users located in Virginia, these State and local law enforcement and regulatory agencies include: The Virginia State Police, the Virginia Attorney General's Office, the Fairfax County Police Department, the Prince William County Police Department, the U.S. Attorney's Office, both the Eastern and Western Districts in Virginia, and the Virginia Bureau of Financial Institutions.

Each state also has a coordinator, so law enforcement agencies without direct access to the BSA data are able to make requests through them to query the information. In Virginia, the coordinator is the Virginia State Police.

Virginia also has several active SAR Review Teams in the state that review SARs filed within their jurisdiction. There are over 100 SAR Review Teams located throughout the country, typically coordinated through the U.S. Attorney's Office. SAR Review Teams are comprised of State, local, and Federal law enforcement and regulatory authorities in the area, meet on a regular basis to review SARs filed within their judicial district, and coordinate law enforcement investigative follow-up as appropriate. In Virginia, there are SAR Review Teams in the Northern Virginia area, as well as in Richmond and Roanoke.

SAR Review Teams typically meet each month, looking at every SAR filed by financial institutions in their jurisdiction. Investigators identify SARs of interest to follow-up on, subpoena records, query the BSA database, and conduct interviews to build cases for prosecution. Some SAR Review Teams, including those in Virginia, are particularly active in developing investigations and prosecutions in structuring cases. And the government does investigate and prosecute structuring, in particular where the investigation may suggest other criminal activity (that might not be apparent to a financial institution).

I know you have already heard about some of the successes these teams have had through listening to Steve Gurdak and Laura Marshall this morning. Because of FinCEN's location in Northern Virginia, we are fortunate to have the opportunity to interact regularly with Steve's SAR Review Team in Northern Virginia, which is known nationally for its successes and innovative approaches to targeting violations of the BSA. This SAR review team is comprised of members from the Federal, State, and local law enforcement community in the Northern Virginia area.

FinCEN's interaction with this SAR Review Team includes providing FinCEN personnel to help in the SAR review process as well as offering technical assistance in areas such as gaining access to the records, the proper use of the SARs in criminal investigations, and even reaching out to our international counterparts for background information on reporting requirements in other countries. In turn, the SAR Review Team has participated in meetings and presentations at FinCEN where Steve and his colleagues have discussed their investigative techniques and approaches as well as some of the more notable prosecutions.

Virginia BSA Filings: A Snapshot

Now that we've spent some time discussing the use of the data, I wanted to quickly touch on what FinCEN is seeing statistically with the BSA data Virginia institutions are filing.

SAR filings in Virginia totaled 18,785 in 2010, down 8% from the previous year's total of 20,414 filings (as compared to a 3% decline in SAR-DIs filed nationally). Looking more closely at the Virginia filings, decreases were seen in filings reporting suspected credit card fraud (down 35% from the previous year), false statement (down 63%), wire transfer fraud (down 38%), and identity theft (down 32%).

Comparing Virginia to other states, for 2010, Virginia's total number of SAR-DI filings ranked it 10th nationally. When ranking states by number of subjects – per capita – in calendar year 2010, Virginia is ranked 21st.

Geographically – and understandably – the highest concentration of SARs filed in Virginia came from the state's most populated areas, including Northern Virginia, the Richmond area, and the Norfolk area.

In terms of characterizations of suspicious activity, BSA/Structuring/Money Laundering was the most frequently cited violation, occurring in 1/3 of the SARs filed (as compared to about 50% nationally). Credit card fraud was ranked 2nd in Virginia, at 14%, (while nationally, this suspicious activity type ranks 5th and is cited on about 5% of SAR-DIs). The third most commonly listed suspicious activity type in Virginia filings is "other" followed next by "wire transfer fraud," which was listed last year in 10% of SAR-DIs filed in Virginia. Nationally, wire transfer fraud is reflected on slightly more than 1% of all SARs filed.

For those of you interested in learning more about SAR statistics either in your state or across the country, FinCEN publishes statistics twice a year on our website where you can not only review various numerical breakdowns, but can also see the information plotted using mapping techniques.

Information Sharing

314(a)

Another area I wanted to touch on, which was also discussed during our outreach meetings last year, is the use of the 314(a) and 314(b) programs.

As most of you are probably aware, FinCEN's regulations under Section 314(a) of the USA PATRIOT Act enable Federal, State, local, and foreign (European Union) law enforcement agencies, through FinCEN, to reach out to more than 45,000 points of contact at more than 22,000 financial institutions to locate accounts and transactions of persons that may be involved in terrorism or significant money laundering. I'm sure many in this room today actually serve as the contact for their institution.

FinCEN receives requests from law enforcement agencies and upon review sends requests to designated contacts within financial institutions across the country generally once every two weeks via a secure Internet Web site. The requests contain subject and business names, addresses, and as much identifying data as possible to assist the financial institutions in searching their records.

The financial institutions must query their records for data matches, including accounts maintained by the named subject during the preceding 12 months and transactions conducted within the last six months, unless a different time period is specified in the request. Financial institutions typically have two weeks from the transmission date of the request to respond to 314(a) requests. If the search does not uncover any matching of accounts or transactions, the financial institution is instructed not to reply to the 314(a) request.

To date, financial institutions have responded with over 93,000 positive subject matches – and over 4,000 of these responses have come from financial institutions in Virginia. Based on the total feedback we have received using the current revised feedback reporting form, 88% of 314(a) requests have contributed to arrests or indictments, demonstrating the high value of information these institutions are providing to law enforcement.

FinCEN's review of our data also shows that in the past 5 years, approximately 64 percent of positive 314(a) matches have come from institutions with assets under \$5 billion. In addition, of the total number of institutions that have responded to 314(a) requests over this 5-year period, FinCEN estimates that 92 percent of these institutions have assets under \$5 billion.

The general proposition remains true that in absolute terms a very small depository institution is statistically less likely to be touched by organized criminal activity than the largest depository institutions with millions of customers and tens or hundreds of billions in assets. But the 314(a) statistics alone have shown that in comparative terms a disproportionately high number of actual cases of terrorist financing and significant money laundering have involved accounts and transactions at smaller depository institutions. The 314(a) statistics underscore the importance that all financial institutions, big and small, have an understanding of the risks affecting them and should implement appropriate policies and procedures to mitigate those risks.

314(b)

Section 314(b) of the USA PATRIOT Act allows regulated financial institutions to share information with each other for the purpose of identifying and, where appropriate, reporting possible money laundering or terrorist activity.

In speaking with many of the largest banks in 2008, FinCEN found use of the 314(b) process to be quite extensive, with several banks noting that they often use the 314(b) process throughout the course of a SAR investigation, before filing a SAR or making a decision to close an account. In our discussions with institutions with assets under \$5 billion, however, FinCEN found there was rather limited use of the 314(b) program.

For an institution to share, they simply need to visit FinCEN's Web site and fill out a short form providing notice of their intent to share information, and designating a point of contact. The form is very simple to complete and FinCEN will provide you with a 314(b) certification for your records.

In FinCEN's town hall meetings last year, institutions shared their experiences with 314(b) including how simple the procedure is to register with FinCEN. One institution shared how difficult it was to discuss a case with a counterpart (for example, seeking more information about a potentially suspicious wire transfer from the institution originating the transfer) in the absence of the institutions being registered under 314(b). This is exactly the kind of situation where the institutions should be relying on the safe harbor available under 314(b). Absent the safe harbor provided by 314(b), an institution could find itself in violation of laws and customer confidentiality obligations.

While participation in 314(b) is ultimately voluntary, FinCEN is continuing to pursue avenues in which the importance of information sharing in order to protect the financial system can be conveyed. For those of you not among the 78 institutions in Virginia currently signed up to share via the 314(b) program, please don't hesitate to visit FinCEN's Web site at www.fincen.gov or contact the FinCEN 314 Program Office with any questions you may have. The number is (866) 326-8314.

E-Filing

One last area I would like to mention is FinCEN's ongoing effort to encourage financial institutions that must file BSA reports to utilize the BSA E-Filing system in lieu of submitting paper reports. The E-Filing system benefits financial institutions as the system is free to users, enables information to be made available in a more timely manner to law enforcement, is less expensive than paper based processing, improves data quality and data security, and provides financial institutions with enhanced audit and recordkeeping capabilities.

During our outreach meetings last year, FinCEN received very strong endorsements of the E-Filing system, in particular at the town hall meetings, where industry representatives that had not yet begun E-Filing were eager to hear the positive experiences of those that had, even among the smallest institutions filing individual reports on only an occasional basis. The E-Filing efforts are the most visible public side of a multi-year information technology modernization effort that FinCEN is currently undergoing to better support our own mission and leverage benefits to the hundreds of Federal, State, and local law enforcement and regulatory agencies we serve. If your institution has not yet moved to E-Filing, I urge you to consider it.

Conclusion

I hope in my remarks today I have been able to share with you a little about the work FinCEN does – particularly in the area of how we use the BSA data and the usefulness to law enforcement of this information. Providing feedback in this area is something we take very seriously. However, we must also be diligent to find the appropriate balance between sharing information and maintaining appropriate confidentiality.

Particularly with respect to SARs, FinCEN and law enforcement take very seriously the obligation of public trust in which sensitive personal and financial information about customers is reported under an expectation and obligation of confidentiality. The obligation to protect the confidentiality of reported information prevents us from disclosing that a SAR was filed or from providing too many investigative details even in the case of an ultimate criminal conviction. And even in more general trend reports, sometimes we seek to avoid providing a level of detail that would serve as a roadmap for criminals to see how others have successfully laundered money or the investigative techniques that law enforcement has used to apprehend them.

With that being said, FinCEN is committed to continuing to share as much as we can in this area. Thank you again for your time today and I am happy to answer any questions you may have.

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