

FEDERAL RESERVE BANK OF SAN FRANCISCO
101 MARKET STREET, SAN FRANCISCO, CALIFORNIA 94105

March 25, 2002

**BANKING SUPERVISION AND REGULATION:
INFORMATION SHARING**

To State Member Banks, Bank
Holding Companies, U.S. Branches
and Agencies of Foreign Banks,
and Others Concerned,
in the Twelfth Federal Reserve District

Information Sharing Pursuant to Section 314(b) of the USA Patriot Act (SR 02-6)

This SR letter describes a new, immediately effective regulation concerning the sharing of information about terrorist financing and money laundering among financial institutions. Issued on March 4, 2002 by the U.S. Department of the Treasury through its Financial Crimes Enforcement Network (FinCEN), the rule is pursuant to section 314(b) of the USA Patriot Act. All banking organizations supervised by the Federal Reserve should obtain a copy of FinCEN's new regulation and take whatever steps are necessary to ensure that your staff understands its provisions.

You may read and print the regulation, which is codified at 31 CFR 103.110, at the U.S. Treasury Department's website, at <http://www.treas.gov/press/releases/po1044.htm>.

Notify the Treasury Department Before Information is Shared

Section 314(b) of the USA Patriot Act generally permits information sharing among financial institutions for the purpose of identifying and reporting activities that involve terrorist acts or money laundering. The statute requires that notice be given to the Treasury Department before any information is shared, and FinCEN's rule requires that financial institutions provide the required statutory notice by filing a certification form. FinCEN is encouraging banks and other financial institutions to file the certification form electronically by accessing the FinCEN website at <http://www.treas.gov/fincen> and clicking on the USA Patriot Act Information link. If your institution does not have Internet access, you may file a paper form, which can be found in the March 4, 2002 edition of the *Federal Register*, at 67 CFR 9874. The form should be mailed to FinCEN, P.O. Box 39, Mail Stop 100, Vienna, VA 22183.

Once the certification form is filed, the filing institution may share information regarding individuals, entities, organizations, and countries for one year, beginning on the execution date of the certification form. To continue sharing information after the expiration of the one-year period, you must submit a new certification form.

Information Sharing for Authorized Purposes

FinCEN's rule requires that all financial institutions sharing information under section 314(b) of the USA Patriot Act have procedures in place to protect the security and confidentiality of shared information and to ensure that the information is used only for authorized purposes. The information

¹ Section 314(b) of the USA Patriot Act and FinCEN's rule apply to "financial institutions" as well as to "associations of financial institutions," a term that is not defined in the law or in the new rule.

acquired through sharing can be used for no other purpose than to identify and report on activities relating to terrorism or money laundering. Under FinCEN's rule, a financial institution receiving information can only use the information in connection with a decision to close or maintain an account or to engage in a transaction. Section 314(b) of the USA Patriot Act provides a safe harbor from liability for information sharing undertaken in accordance with the provisions of FinCEN's regulation.

In deciding with whom institutions may share information, careful attention should be paid to the definition of financial institution in the regulation. "Financial institution" is defined generally to include most financial institutions that are subject to the banking agencies' and Treasury's suspicious activity reporting requirements (e.g., banks, bank holding companies, savings associations, and broker-dealers). FinCEN is requesting public comments on whether additional types of financial institutions should be permitted to share information under this regulation.¹

Additional Information

All circulars and documents are available on the Internet through the Federal Reserve Bank of San Francisco's Internet site, at <http://www.frbsf.org/banking/letters>. Paper copies of the notice **(SR 02-6)** are available from our Corporate Services Department. To request copies to be sent by mail, please call (415) 974-2060.

For additional information about information sharing, please contact our Banking Supervision and Regulation Department at (415) 974-2911.

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