



Department of the Treasury Financial Crimes Enforcement Network

February 6, 2003

INSTRUCTIONS FOR RESPONDING TO SECTION 314(a) REQUESTS

The following instructions apply to any financial institution that receives a section 314(a) request by the Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of the Treasury. These general instructions supersede any other instructions issued by FinCEN, unless and to the extent a particular section 314(a) request is accompanied by specific instructions. In those situations, the specific instructions shall apply.

General Instructions

What You Must Do. You are required to search your records to determine whether you, at your head office or at one of your branches operating in the United States, maintain or have maintained accounts for, or have engaged in transactions with, any individual, entity, or organization ("named subject") listed in the 314(a) request.

Timing. You must begin searching your records immediately upon receiving the 314(a) request. If a financial institution finds a match with a named subject, the match must be reported to FinCEN. Unless the instructions to a request state otherwise, financial institutions must complete their search on all the subjects listed in the 314(a) request and respond with any matches no later than fourteen (14) calendar days after receiving a 314(a) request.

Records Search. Using the identifying information contained in the 314(a) request, you are required to conduct a **one-time** search of the following records, **whether or not they are kept electronically (subject to the limitations below)**:

- (1) deposit account records (e.g., DDA, checking/share drafts, savings, and certificates of deposit) to determine whether a named subject is or was an accountholder;
- (2) funds transfer records maintained pursuant to 31 CFR 103.33 to determine whether a named subject was an originator/transmitter of a funds transfer for which you were the originator/transmitter's financial institution, or a beneficiary/recipient of a funds transfer for which you were the beneficiary/recipient's financial institution;
- (3) records of the sale of monetary instruments (e.g., cashier's checks, money orders, or traveler's checks) maintained pursuant to 31 CFR 103.29 to determine whether a named subject purchased a monetary instrument;

- (4) loan records to determine whether a named subject is or was a borrower;
- (5) trust department account records to determine whether a named subject matches the name in which an account is titled;
- (6) records of accounts to purchase, sell, lend, hold, or maintain custody of securities to determine whether a named subject is or was an accountholder;
- (7) commodity futures, options, or other derivatives account records to determine whether a named subject is or was an accountholder; and,
- (8) safe deposit box records to determine whether a named subject maintains or maintained, or has or had authorized access to, a safe deposit box, but only if such safe deposit box records are searchable electronically.

Your search of the records described above need only encompass current accounts and accounts maintained by a named subject during the preceding twelve (12) months, and transactions not linked to an account conducted by a named subject during the preceding six (6) months. Any record described above that is not maintained in electronic form need only be searched if it is required to be kept under federal law or regulation.

You are not required to search any other records, including the following:

- (1) checks processed through an account to determine whether a named subject was a payee of a check;
- (2) monetary instruments (e.g., cashier's checks, money orders, or traveler's checks) issued by your institution to determine whether a named subject was a payee of such an instrument;
- (3) signature cards to determine whether a named subject is a signatory to an account (unless such a search is the only method to confirm whether a named subject maintains an account, as described above); and,
- (4) reports (e.g., CTRs and SARs) that you previously filed with FinCEN.

What to do with a match. If you find a match with a named subject, you should stop your search on that subject; you are not required to search your records further for other matches with that subject unless and until you have been contacted by the requesting federal law enforcement agency for additional information. If the 314(a) request contains multiple subjects, you must continue to search your records for an account or transaction matching any of the other named subjects. After you have completed your search on all the subjects listed in the 314(a) request, you must report any match to FinCEN by completing the Subject Information Form (one form per request). The Subject Information Form is the means for conveying a 314(a) request and reporting matches to FinCEN. The Form only requires you to place an "X" next to the particular

named subject for which a match was found, and to provide point-of-contact information. **If the search does not uncover any matching account or transaction, you should not reply to the 314(a) request.**

Report to FinCEN. The Subject Information Form containing any positive matches must be sent to FinCEN by electronic mail at sys314a@fincen.treas.gov, or if you do not have e-mail, by facsimile transmission at 703-905-3660. Responses must contain FinCEN's Tracking Number in the subject line of the e-mail or on the fax cover sheet. FinCEN's Tracking Number can be found in the upper right-hand corner of the Subject Information Form. No details need to be provided on the response to FinCEN other than the fact that you have a match on the particular named subject. **Please do not send any record of an account or a transaction (other than a report, as described above, notifying FinCEN of a match) when responding to this information request.**

In your response, please provide FinCEN with information identifying the point-of-contact at your institution in charge of the 314(a) search and the person who may be contacted by the requesting federal law enforcement agency for additional information. Please include each point-of-contact's:

- (1) name;
- (2) mailing address;
- (3) telephone number; and,
- (4) e-mail address (if any).

No other action required by a 314(a) request. You are not required by a 314(a) request to close any account or take any other action with respect to an account or a transaction by virtue of a match with any named subject. You also should not maintain the list of named subjects for the purpose of evaluating whether to open an account or to conduct a transaction, unless specific instructions accompanying a 314(a) request state otherwise.

Use and confidentiality. You generally may not disclose to any other person the fact that FinCEN has requested or obtained information, except to the extent necessary to comply with FinCEN's request. For purposes of assisting you in complying with this request, you may provide the list of named subjects to a third-party service provider or vendor so long as you take those steps necessary to ensure that the third-party safeguards the information.

Questions. General questions concerning the application of 31 CFR 103.100 should be directed to FinCEN's Regulatory Helpline at 1-800-949-2732 or your primary federal regulator. FinCEN has published Frequently Asked Questions on its website at www.fincen.gov. If you have questions concerning a possible match with any named subject, please contact directly the requesting federal law enforcement agency referenced in the section 314(a) request.