



# Audit Report



OIG-08-030

TERRORIST FINANCING/MONEY LAUNDERING: Responsibility for Bank Secrecy Act Is Spread Across Many Organizations

April 9, 2008

Office of  
Inspector General

Department of the Treasury



# Contents

---

<b>Audit Report</b> .....	1
Summary .....	2
Overview of BSA and Related Laws.....	5
Treasury Has Lead Responsibility for BSA But Responsibility for Compliance and Enforcement Is Shared Among Many Agencies .....	9
FinCEN and IRS Have Made Efforts to Improve BSA-Related Coordination and Communication .....	20
BSA-Related Cost and Performance Data Are Limited .....	26
Concluding Observations .....	31
Recommendations .....	32

## Appendices

Appendix 1:	Objective, Scope and Methodology .....	36
Appendix 2:	Key Federal Anti-Money Laundering Laws.....	38
Appendix 3:	List of BSA-Related Audit Reports .....	43
Appendix 4:	Management Response .....	46
Appendix 5:	Major Contributors to This Report.....	49
Appendix 6:	Report Distribution.....	50

## Abbreviations

BSA	Bank Secrecy Act of 1970, as amended
CFTC	Commodity Futures Trading Commission
DHS	Department of Homeland Security
DOJ	Department of Justice
FBI	Federal Bureau of Investigation
FDIC	Federal Deposit Insurance Corporation
FinCEN	Financial Crimes Enforcement Network
FINRA	Financial Industry Regulatory Authority
Federal Reserve	Federal Reserve System
IRS	Internal Revenue Service
LEA	law enforcement agency

---

MOU	memorandum of understanding
MSB	money services business
NASD	National Association of Securities Dealers
NCUA	National Credit Union Administration
NYSE	New York Stock Exchange
OMB	Office of Management and Budget
OCC	Office of the Comptroller of the Currency
OFAC	Office of Foreign Assets Control
OTS	Office of Thrift Supervision
SAR	suspicious activity report
SEC	Securities and Exchange Commission
SRO	self-regulatory organization
TFI	Office of Terrorism and Financial Intelligence

---

*The Department of the Treasury  
Office of Inspector General*

April 9, 2008

James H. Freis, Jr.  
Director, Financial Crimes Enforcement Network

Among Treasury's most critical missions is that of administering the Bank Secrecy Act (BSA). Accordingly, we prepared this report to serve as a source of reference for Treasury policy makers and other stakeholders who contemplate this important subject.

Enacted in 1970, BSA requires that financial institutions file certain reports and maintain specified records to provide a paper trail of the activities of money launderers that can be used by law enforcement officials. Since 1970, BSA has been amended a number of times to increase its effectiveness, including, in October 2001, by title III of the USA PATRIOT Act, which (1) added provisions to prevent, detect, and prosecute terrorist financing and international money laundering at financial institutions and (2) extended anti-money-laundering requirements to additional types of financial service providers. (Throughout the remainder of this report, we refer to these laws together as BSA).

In September 2002, by virtue of the USA PATRIOT Act, the Secretary delegated authority to implement and administer BSA to the Director of the Financial Crimes Enforcement Network (FinCEN). As a result, the Director of FinCEN has overall authority for BSA enforcement and compliance, including coordination and direction of procedures and activities of all other agencies also exercising delegated authority under the BSA regulations.<sup>1</sup> FinCEN

---

<sup>1</sup> 31 CFR §103.56.

---

reports to the Under Secretary for Terrorism and Financial Intelligence (TFI).<sup>2</sup>

Our objective for this review was to identify and describe Treasury's authority and responsibility for the administration of BSA. To meet our objective, we gathered information to answer the following questions:

- Which major domestic organizations are involved in the enforcement and compliance of BSA and what authority does Treasury have over the BSA-related efforts of these organizations?
- How does Treasury direct and coordinate BSA enforcement and compliance?
- Are government-wide BSA costs and performance data available to link resources to results?

We obtained information about Treasury's role in and responsibility for administering and enforcing BSA laws and regulations, other organizations involved with the enforcement and compliance of these laws and regulations, coordination of these organizations' efforts, resources devoted to these efforts, and measurement of these efforts. We conducted our review from February 2005 to December 2006, but continued to seek clarification of certain information from various entities through September 2007. Appendix 1 contains a more detailed description of our objective, scope, and methodology.

## Summary

We identified 12 organizations that have substantial BSA responsibilities.<sup>3</sup> The organization with the primary responsibility is FinCEN, which administers BSA. In this role, FinCEN is supported by the Internal Revenue Service's (IRS), Enterprise Computing Center – Detroit to maintain BSA-related databases. IRS also examines certain financial institutions for BSA compliance. In addition to IRS, 7 federal financial institution regulators and 3 self-

---

<sup>2</sup> Treasury Order 105-17, paragraph 1.(e).

<sup>3</sup> In addition to these 12 there are many more federal organizations with BSA responsibilities. In addition, individual states and U.S. territories examine financial institutions for BSA compliance.

---

regulatory organizations (SRO) ensure compliance with BSA by their regulated institutions. Five of the financial institution regulators and the 3 SROs are outside of Treasury.

We also identified 9 federal law enforcement agencies (LEA) – 1 within Treasury and 8 others – that significantly use BSA data. Two of these agencies are also specifically delegated authority for investigating criminal violations of the BSA regulations— 1 within Treasury and another that was formerly within Treasury but is now part of the Department of Homeland Security.

While the Under Secretary for TFI has direct authority over FinCEN, the lines of authority for purposes of BSA over the other Treasury bureaus and all non-Treasury organizations are indirect. For example, Treasury’s Office of the Comptroller of the Currency (OCC) and Office of Thrift Supervision (OTS), which examine and enforce BSA compliance by national banks and thrifts, respectively, do not report directly to TFI. IRS, which examines BSA compliance by casinos, money services businesses (MSB),<sup>4</sup> and as of 2006, insurance companies and dealers in precious metals, precious stones, or jewels, also does not report directly to TFI.

Other federal regulators such as the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (Federal Reserve), and the National Credit Union Administration (NCUA), oversee financial institution compliance with BSA but are independent of Treasury’s authority. Federal LEAs such as the Federal Bureau of Investigation (FBI) and Immigration and Customs Enforcement who investigate money laundering using BSA data and determine their own investigative priorities, are also independent of Treasury.<sup>5</sup>

The organizations with BSA responsibility described in the paragraphs above are presented in the body of the report in table 1, table 2, and figure 2.

---

<sup>4</sup> MSBs include six types of financial organizations: currency dealers or exchangers, check cashers, issuers of traveler’s checks or money orders, sellers or redeemers of traveler’s checks or money orders, money transmitters, and issuers or redeemers of stored value.

<sup>5</sup> We included law enforcement agencies in the discussion because they utilize BSA information in their investigative efforts and can provide useful feedback to Treasury.

---

Without direct authority, Treasury (through FinCEN) provides overall support and coordinates efforts to ensure BSA compliance through regulations, guidance, and memoranda of understanding (MOU) with federal and state regulators. MOUs are used to lay out requirements and protocols for information sharing and coordination of enforcement efforts. We identified 80 Treasury (FinCEN and IRS) compliance information sharing MOUs established as of October 1, 2007, to improve communication and coordination between Treasury and other entities with various levels of BSA responsibility and authority. Because most of these MOUs are relatively recent and voluntary, it is difficult to say yet whether they are working, though Treasury officials indicated to us that the MOUs are working well. Regarding communication, we found that communication between FinCEN and LEAs needs improvement, particularly as related to FinCEN's analysis of BSA data.

BSA-related costs and performance data of regulators and SROs involved in ensuring BSA compliance are not generally available. Without accurately knowing the resources being expended on BSA activities or the results directly achieved, the Under Secretary for TFI, FinCEN, and other stakeholders (e.g., Congress, the Office of Management and Budget, and agency management) may be hampered in their efforts to link resources expended on BSA enforcement to results achieved or to identify anomalies in levels of effort devoted to BSA enforcement and compliance activities among agencies.

Challenged by these limitations, Treasury must manage the program within the range of its authority. To ensure effective management of BSA-related activities and provide a clearer picture of the results of these efforts, we are recommending that FinCEN (1) establish a plan for periodically assessing whether its compliance and information sharing MOUs with regulators are working as intended, (2) determine a means for ensuring that FinCEN and LEAs sufficiently communicate about the extent to which FinCEN should use its analytic capabilities to support the agencies in their investigations, and (3) work with Treasury and non-Treasury organizations to develop BSA –related performance measures or indicators to track results achieved.



---

FinCEN concurred with our recommendations. FinCEN said that the MOUs require annual meetings to evaluate the effectiveness of information sharing. In addition, FinCEN holds periodic liaison meetings and, in February 2008, commissioned a customer satisfaction survey of partner regulators with which it has concluded MOUs. FinCEN also is engaged in a number of activities to enhance communication with law enforcement agencies and to determine ways that the bureau's analytical efforts can complement law enforcement investigative efforts. In December 2008, FinCEN plans to survey law enforcement customers on potential strategic initiatives and methods to ensure FinCEN's analytical products and services meet their investigative needs. In addition, subsequent to our fieldwork, FinCEN established a BSA-related performance measure to track results achieved from Treasury and non-Treasury regulatory organizations, reflecting the percentage of bank examinations indicating a systemic failure of the anti-money laundering program. FinCEN further plans to evaluate the customer survey results and set future targets.

## Overview of BSA and Related Laws

Money laundering activities are designed to conceal or disguise the nature, location, source, ownership, or control of money (currency or currency equivalents such as checks and electronic transfers) to avoid a transaction reporting requirement under state or federal law or to disguise the fact that the money was acquired by illegal means. Terrorist financing provides a person or group the opportunity to collect funds with the intention of intimidating a population or compelling a government or international organization to abstain from carrying out an act through the threat of violence. The funding may be derived from criminal activities or legitimate sources. Regardless, the techniques to fund terrorism can be similar to those used to launder money.

Congress enacted BSA in 1970.<sup>6</sup> BSA requires that financial institutions maintain records and reports which help identify the source, volume, and movement of currency and other monetary

---

<sup>6</sup> Pub. .L. No. 91-508 (codified, as amended, at 12 U.S.C. § 1829b; 12 U.S.C. §§ 1951-1959; 31 U.S.C. § 5311 et seq.).

---

instruments transmitted into or out of the United States.<sup>7</sup> This information is passed on to federal officials so that law enforcement can apprehend criminals by following money trails. BSA contains both civil and criminal penalties for violations of its reporting requirements. Regulations promulgated under the act require domestic financial institutions to file reports for cash transactions exceeding \$10,000<sup>8</sup> and to file a suspicious activity report (SAR) for a transaction exceeding \$5,000<sup>9</sup> that the institution knows, suspects, or has reason to suspect is intended to evade any federal law or regulation, involves illegally obtained funds, or has no business or apparent lawful purpose.<sup>10</sup> Since 1970, Congress has enacted laws amending BSA that, among other things, have added criminal and civil sanctions for money launderers and made terrorist financing an activity punishable under federal money laundering laws.

The USA PATRIOT Act established FinCEN as a bureau to administer the requirements of BSA. In September 2002, by virtue of the USA PATRIOT Act, the Secretary formalized the establishment of FinCEN as a Treasury bureau and delegated the authority to FinCEN to administer the requirements of BSA.<sup>11</sup> In April 2004, the Secretary formalized the statutory establishment of the Office of Terrorism and Financial Intelligence and clarified that FinCEN reports to the Under Secretary for Enforcement as head of TFI.<sup>12</sup> In December 2004, Congress passed the Consolidated Appropriations Act, 2005, which established the position of Under Secretary for TFI in law.<sup>13</sup> The law stipulates that FinCEN reports to the Under Secretary of TFI and that the Under Secretary may not redelegate its reporting authority over FinCEN.

---

<sup>7</sup> 31 U.S.C. § 5312(a)(2) defines the term “financial institution” to include banks, credit unions, thrifts, broker-dealers, insurance companies, money services businesses, pawnbrokers, casinos, auto dealers, travel agencies, etc.

<sup>8</sup> 31 C.F.R. 103.22(b)(1).

<sup>9</sup> The threshold is generally \$5,000, but for MSBs it is \$2,000 at the point of sale.

<sup>10</sup> 31 C.F.R. 103.18 (depository institutions), 31 C.F.R. 103.15 (mutual funds), 31 C.F.R. 106.16 (insurance companies), 31 C.F.R. 103.17 (futures commission merchants and introducing brokers in commodities), 31 C.F.R. 103.19 (brokers or dealers in securities), 31 C.F.R. 103.20 (MSBs), and 31 C.F.R. 103.21 (casinos).

<sup>11</sup> Treasury Order 180-01

<sup>12</sup> Treasury Order 105-17

<sup>13</sup> Pub. L. No. 108-447 Division H, Title II, Sec. 222. Under this act, the position was titled Under Secretary for Terrorism and Financial Crimes.

---

FinCEN's role includes supporting law enforcement, fostering interagency and global cooperation against domestic and international financial crimes, and providing U.S. policy makers with strategic analyses of domestic and worldwide trends and patterns. FinCEN is to work toward those ends through information collection, analysis, and sharing, as well as technological assistance and innovative, cost-effective implementation of BSA and other Treasury authorities assigned to FinCEN. Among other things, the Secretary delegated to the Director of FinCEN the authority to take all necessary and appropriate actions to implement and administer Titles I and II of BSA, as amended, including the promulgation and amendment of regulations and the assessment of penalties.

Except when dealing with insured depository institutions, the Secretary has the sole authority to issue regulations delineating the types of transactions financial institutions are required to report to the Department and the types of records they are required to maintain for the purposes of BSA. Certain related recordkeeping and other rules for insured depository institutions are jointly prescribed by the Secretary and one or more of the federal banking agencies, depending on the nature of the requirement. Related regulations for insured depository institutions are jointly prescribed by the Secretary and the Federal Reserve. The Secretary also has a variety of civil, criminal, and special measures<sup>14</sup> at his disposal, and can petition the federal courts to enforce any such sanctions. In turn, the Secretary has delegated his authority and responsibility in this area to the Under Secretary for TFI, who provides the policy, strategic, and operational direction to Treasury on issues related to enforcing BSA, combating terrorist financing, combating financial crimes, intelligence analysis, and other related enforcement activities. Though FinCEN reports to the Under Secretary for TFI, FinCEN retains the authority to administer BSA.

---

<sup>14</sup>The term "special measures" refers to recordkeeping for and reporting of certain financial transactions; information relating to beneficial ownership; information relating to certain payable-through accounts; information relating to certain correspondent accounts; and prohibitions or conditions on opening or maintaining certain correspondent or payable-through accounts. 31 U.S.C. § 5318A(b).

---

In response to the September 11 terrorist attacks, Congress enacted the USA PATRIOT Act on October 21, 2001.<sup>15</sup> Title III of the act, known as the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001,<sup>16</sup> requires that financial institutions establish an anti-money laundering program. The program must include policies, procedures, and internal controls; designation of a compliance officer; employee training; and an independent audit function.<sup>17</sup>

Title III also amended the BSA to allow the Secretary to require domestic financial institutions and agencies to take special measures, as mentioned above, if reasonable grounds exist that a jurisdiction, financial institution, types of accounts, or classes of international transactions are of primary money laundering concern. Specific special measures would be taken only after consultation with the Chairman of the Federal Reserve, any other appropriate federal banking agency, the Secretary of State, Securities and Exchange Commission (SEC), Commodity Futures Trading Commission (CFTC), National Credit Union Administration (NCUA), and in the sole discretion of the Secretary, other agencies and interested parties found to be appropriate.<sup>18</sup>

Key federal anti-money laundering laws are listed below and described in appendix 2.

- Bank Secrecy Act of 1970
- Money Laundering Control Act of 1986
- Annunzio-Wylie Anti-Money Laundering Act of 1992
- Money Laundering Suppression Act of 1994
- Money Laundering and Financial Crimes Strategy Act of 1998
- Title III of the USA PATRIOT Act of 2001
- Intelligence Reform and Terrorism Prevention Act of 2004
- USA PATRIOT Improvement and Reauthorization Act of 2005

---

<sup>15</sup> Pub. L. No. 107-56. The acronym USA PATRIOT stands for “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism.”

<sup>16</sup> Pub. L. No. 108-458, § 6202, named title III the International Money Laundering Abatement and Financial Antiterrorism Act of 2001.

<sup>17</sup> 31 U.S.C. § 5318(h).

<sup>18</sup> 31 U.S.C. § 5318A(a).

---

## Treasury Has Lead Responsibility for BSA But Responsibility for Compliance and Enforcement Is Shared Among Many Agencies

Treasury is the lead agency responsible for the federal government's effort to prevent money laundering and combat terrorist financing in the United States. In managing this effort, the Secretary has a number of specific authorities and responsibilities under BSA, which he has delegated to the Director of FinCEN, who is under the direct supervision of the Under Secretary for TFI. The Secretary has assigned to TFI the functions of providing policy, strategic, and operations direction to the Department on issues relating to BSA implementation. However, FinCEN's and TFI's direct line authority over all entities involved in BSA compliance and enforcement is limited. Our review identified 12 organizations, including FinCEN, with substantial BSA compliance and enforcement responsibilities.

### Treasury Authority Under BSA

Under BSA, the Secretary may issue regulations delineating the types of transactions financial institutions are required to report to the Department and the types of records they must maintain. This authority has been delegated to the Director of FinCEN.<sup>19</sup> The Under Secretary and Director of FinCEN, however, lack direct authority over all other entities with BSA responsibility, including those organizations within Treasury. For example, Treasury's OCC and OTS, which regulate national banks and thrifts, respectively, are separate from TFI. Although OCC and OTS are under the general supervision of the Secretary, the statutes<sup>20</sup> stipulate that the Secretary may not delay or prevent the issuance of any rule or promulgation of any regulation by OCC or OTS, or intervene in any particular matter. In addition, IRS, which examines casinos, MSBs, and since January 2006, dealers in precious metals, precious stones, or jewels, and since May 2006, insurance companies, is also independent of TFI authority. Similarly independent are the numerous LEAs which utilize BSA information in their

---

<sup>19</sup> Under Treasury Order 180-01, all regulations issued or amended by the Director of FinCEN are subject to approval by the Under Secretary of TFI.

<sup>20</sup> 12 U.S.C. § 1 (OCC) AND 12 U.S.C. § 1462a (OTS).

---

investigations, such as the FBI which uses BSA data in its investigations; non-Treasury federal regulators, such as the FDIC, which enforces compliance; and nongovernmental SROs, such as the New York Mercantile Exchange which enforces compliance.

### **Organizations With BSA Responsibility**

Of the 12 organizations that we identified that have regulatory or enforcement responsibility under BSA,<sup>21</sup> only FinCEN reports directly to the Under Secretary for TFI. The remaining 11 organizations with BSA-related responsibility fall under the Under Secretary for TFI's indirect influence. These organizations include 3 within Treasury but outside of TFI and 9 external to Treasury. The Under Secretary also has direct authority over four other Treasury organizations, but their roles involve anti-money laundering and counterterrorist functions and do not directly involve BSA matters.

### Organizations That Report to the Under Secretary for TFI

TFI directs Treasury's efforts to safeguard the U.S. financial system against illicit use, rogue nations, money launderers, terrorist facilitators, proliferators of weapons of mass destruction, drug kingpins, counterfeiters, and other threats. TFI directs the work of FinCEN. FinCEN supports law enforcement, intelligence, and regulatory agencies in sharing and analyzing financial intelligence, and builds global cooperation with financial intelligence units of other countries.

Four other TFI organizations have substantial anti-money laundering roles but are not directly involved in BSA compliance and enforcement. The Office of Terrorist Financing and Financial Crimes is TFI's policy development and outreach office for issues relating to international anti-money laundering and counterterrorist financing. It collaborates with other elements of TFI when setting policy. The Office of Intelligence and Analysis is responsible for the receipt, analysis, collation, and dissemination of intelligence and counterintelligence information related to the operations and responsibilities of the entire Department. It is staffed by analysts

---

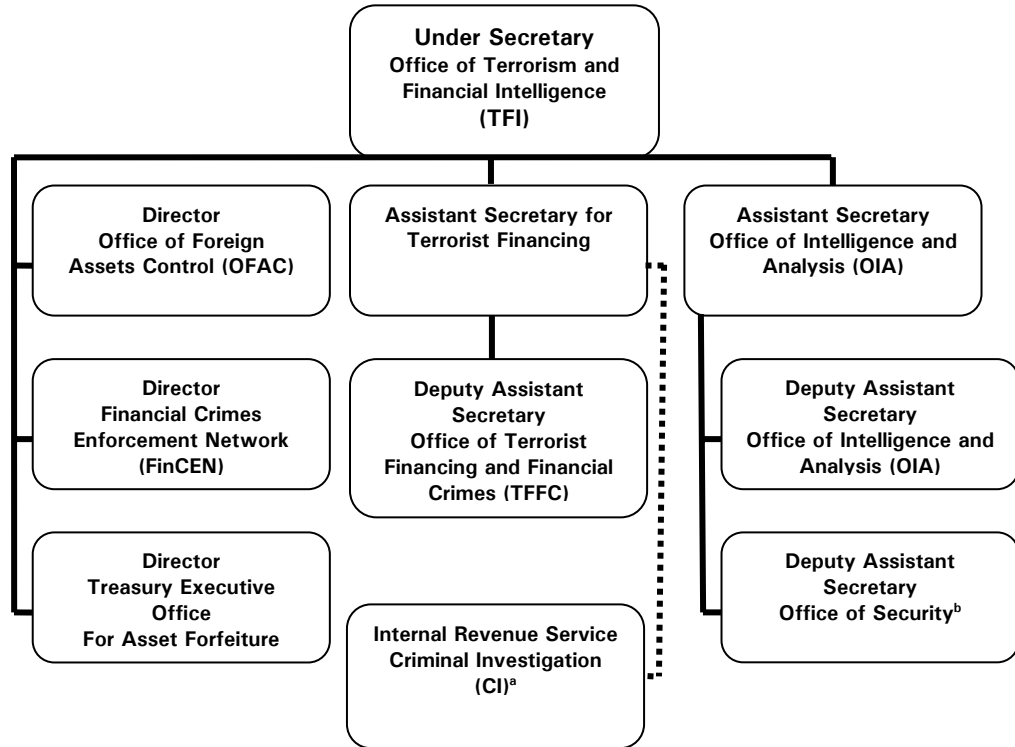
<sup>21</sup> We did not include the many other organizations that are layered beneath these organizations in this total, nor did we include the states.

---

focused on the financial networks of terrorists and others who threaten national security. The Office of Foreign Assets Control is charged with administering and enforcing U.S. economic and trade sanctions based on foreign policy and national security goals. The Treasury Executive Office for Asset Forfeiture administers the Treasury Forfeiture Fund, which is derived from nontax forfeited assets deposited by five federal law enforcement entities. One of these entities, IRS Criminal Investigation, is within Treasury. The remaining four are components of the Department of Homeland Security (DHS): Immigration and Customs Enforcement, Customs and Border Protection, Secret Service, and Coast Guard.

Figure 1 on the next page depicts the organizational structure of TFI.

Figure 1: TFI Organization Chart



Source: TFI Web site.

<sup>a</sup> The dotted line from TFI to IRS Criminal Investigation signifies the organization's close working relationship in developing anti-money laundering, terrorist financing, and financial crimes cases.

<sup>b</sup> The Office of Security is responsible for the Department's personnel, physical, and information security programs.

### Organizations That Do Not Report Directly to the Under Secretary for TFI

#### Federal Regulators

One of the primary functions of federal regulators is to examine financial institutions under their purview to ensure compliance with all laws and regulations. Federal regulators have their own separate authorities to ensure that regulated entities comply with all laws



---

and regulations, including BSA.<sup>22</sup> In addition, the Secretary delegated the authority to the federal regulators to examine institutions to determine compliance with BSA requirements. It is this combined authority that federal regulators use to examine institutions to determine compliance with the BSA regulations. However, FinCEN has the authority to issue, amend or modify BSA regulations, which allows FinCEN to exert indirect authority over the examinations conducted by 8 federal regulators.<sup>23</sup>

Three of these regulators are within Treasury — OCC, which oversees national banks; OTS, which oversees thrifts; and IRS, which, through its Small Business/Self-Employed Division, oversees casinos, MSBs, insurance companies, and dealers in precious metals, precious stones, or jewels. It should also be noted that IRS's Tax Exempt and Government Entities Division assists the Small Business/Self Employed Division by providing BSA outreach to and oversight of charitable organizations and tribal governments.

In addition, IRS manages the BSA database for FinCEN. In this regard, IRS collects transaction data, converts paper and magnetic-tape submissions into electronic media, and stores all of the BSA data in its systems located at the IRS Enterprise Computing Center -- Detroit. While IRS is a bureau within Treasury and the Secretary has significant direct authority over the bureau, IRS does not report to the Under Secretary for TFI. IRS does, however, work collaboratively with FinCEN under a service agreement signed with IRS in 1995 to collect, store, and provide authorized user access to SAR data. IRS's role in obtaining and maintaining other BSA data is longstanding.

The other five regulators are outside of Treasury — Federal Reserve, Federal Deposit Insurance Corporation (FDIC), NCUA, SEC, and CFTC.<sup>24</sup>

---

<sup>22</sup> For example, the federal banking agencies have authority pursuant to 12 USC §§ 1786 (for credit unions) and 1818 (for depository institutions) to ensure that banking organizations comply with all laws and regulations.

<sup>23</sup> 31 CFR §103.56(b).

<sup>24</sup> The Deputy Secretary of the Treasury discussed the indirect relationship between Treasury and external regulators, which examine their respective institutions for BSA compliance, in testimony before the House Financial Services Subcommittee on Oversight and Investigations, June 16, 2004.

---

## Self-Regulatory Organizations

Self-regulatory organizations (SRO) are nongovernmental organizations that have statutory responsibility to regulate their own members, such as securities broker-dealers, and fall under the regulatory authority of federal agencies such as SEC and CFTC. SROs obtain their authority to regulate and examine their members under the laws that authorized them. SROs fall under the regulatory authority of federal agencies.<sup>25</sup>

Three major SROs, one regulated by SEC and two regulated by CFTC, play an important role in ensuring compliance with BSA. The SEC regulates the Financial Industry Regulatory Authority (FINRA).<sup>26</sup> The consolidation is intended to streamline the broker-dealer regulatory system and permit a single set of governing rules over members.

CFTC regulates the New York Mercantile Exchange, which in turn is responsible for regulating its member brokers. The New York Mercantile Exchange is the world's largest physical commodity futures exchange and trading forum for energy and precious metals. The National Futures Association, also regulated by CFTC, is the SRO for the U.S. futures industry. It regulates every firm or individual who conducts futures trading business with public customers. SEC and CFTC also regulate other SROs, such as the American Stock Exchange in the case of SEC, and the Chicago Mercantile Exchange in the case of CFTC, which in turn regulate their members.

## Law Enforcement Agencies

Nine federal LEAs—one within Treasury, five within the Department of Justice (DOJ), and three within DHS—use BSA data

---

<sup>25</sup> 31 C.F.R. §103.120(c) states that a registered securities broker-dealer or a futures commission merchant will be deemed in compliance with the requirements of 31 U.S.C. § 5318(h)(1) if it complies with the rules, regulations, or requirements of its SRO concerning the establishment and maintenance of anti-money laundering programs, and the other requirements of section 120(c).

<sup>26</sup> On July 26, 2007, the SEC gave regulatory approval to the consolidation of the member firm regulatory functions of the National Association of Securities Dealers (NASD) and NYSE Regulation, Inc. into a single, consolidated self regulatory organization.

---

for investigative purposes during ongoing investigations and for detection of possible new criminal activity.

The Treasury law enforcement agency that addresses BSA-related crimes is IRS Criminal Investigation, which investigates potential criminal violations of the Internal Revenue Code and related financial crimes. Over the years, IRS Criminal Investigation's statutory jurisdiction has expanded to include money laundering and currency violations. It has also been delegated specific authority for investigating criminal violations of the BSA regulations, except for violations with respect to the reports of exports and imports of monetary instruments in excess of \$10,000.<sup>27</sup>

The following five LEAs are within DOJ:

- The FBI addresses money laundering and terrorist financing crimes in two of its units: (1) the Asset Forfeiture/Money Laundering Unit of the Financial Crimes Section within the Criminal Investigative Division and (2) the Terrorist Financing Operating Section within the Counterterrorism Division. The Asset Forfeiture/Money Laundering Unit promotes strategic use of asset forfeiture and works to ensure that field offices employ the money laundering violation in all investigations, where appropriate, to disrupt or dismantle criminal enterprises. The Terrorist Financing Operating Section works to identify, investigate, prosecute, disrupt, and dismantle all terrorist-related financial and fundraising activities.
- The Drug Enforcement Administration uses BSA data to investigate monetary transactions resulting from unlawful drug activities under the primary U.S. money laundering statutes and applicable civil and criminal forfeiture statutes.
- DOJ's Criminal Division has two components involved with the use of BSA data to combat money laundering and terrorist financing. The Asset Forfeiture and Money Laundering Section provides centralized management for the Department's asset forfeiture program and managerial direction in the Department's

---

<sup>27</sup> 31 CFR §103.56(c)(2).

---

money-laundering prosecutions. The section also initiates, coordinates, and reviews legislative and policy proposals affecting the DOJ's asset forfeiture program and money laundering enforcement programs. The Counterterrorism Section is responsible for legislative initiatives, policies, and strategies relating to combating international and domestic terrorism.

- The Executive Office of U.S. Attorneys is a liaison between DOJ and the 93 U.S. Attorneys. The U.S. Attorneys serve as the nation's principal litigators, under the direction of the Attorney General, and prosecute suspected perpetrators of federal crimes, including violations of BSA.

The following three LEAs are within DHS:

- The Secret Service investigates counterfeiting of U.S. currency, financial fraud, and money laundering.
- Immigration and Customs Enforcement, through its Financial Investigations Branch, targets individuals who violate immigration laws, particularly as related to possible terrorist financing, and tracks the financial transactions of these illicit activities to identify co-conspirators and seize their illicit profits. Immigration and Customs Enforcement also enforces bulk cash smuggling statutes.
- The legacy U.S. Customs Service had delegated authority from the Secretary of the Treasury to enforce regulations pertaining to the reporting of cash and monetary instruments imported into or exported from the United States.<sup>28</sup> Upon creation of the Department of Homeland Security in 2003, the former U.S. Customs Service was transferred from Treasury to Homeland Security where certain U.S. Customs functions were assigned to Customs and Border Protection and the law enforcement function was transferred to Immigration and Customs Enforcement. These organizations share responsibility for enforcing the regulations pertaining to the reporting of cash and monetary instruments imported into or exported from the U.S.

---

<sup>28</sup> 31 CFR 103.56 (b)(7) and (c)(1)

---

Customs and Border Protection also helps Immigration and Customs Enforcement enforce bulk cash smuggling statutes.

### **Bank Secrecy Act Advisory Group Provides Advice to Treasury**

The Bank Secrecy Act Advisory Group is a group of representatives from the financial services industry, law enforcement, and regulatory partners who come together with senior level Treasury officials periodically to discuss anti-money laundering related compliance and public policy matters, including possible new regulatory requirements. Treasury established this group in 1994 to help strengthen anti-money laundering controls.

Table 1 and 2 and figure 2 depict the organizations described in this section, with figure 2 providing additional details on the interagency relationships for agencies and organizations that have BSA responsibilities and/or are users of BSA information.

**Table 1. Twelve Major Organizations With Substantial BSA-Related Responsibility**

<b>Organization</b>	<b>Responsibilities</b>
<b>Treasury Bureaus (4)</b>	
Financial Crimes Enforcement Network Internal Revenue Service:	BSA-administration and enforcement
Small Business/Self-Employed Division	Examiner for casinos, MSBs, insurance companies, and others; oversees the processing of paper-filed BSA forms
Enterprise Computing Center Detroit	Operates the BSA data center
Office of the Comptroller of the Currency	Regulator for national banks
Office of Thrift Supervision	Regulator for thrift institutions
<b>External Financial Regulators (5)</b>	
Federal Deposit Insurance Corporation	Regulator for state-chartered banks
Federal Reserve Board	Regulator for holding companies and certain state-chartered banks
National Credit Union Administration	Regulator for credit unions
Commodity Futures Trading Commission	Regulator for commodity, financial futures, and options market
Securities and Exchange Commission	Regulator for securities market
<b>External Self-Regulatory Organizations (3)</b>	
National Futures Association	Futures self-regulator for U.S. futures industry
New York Mercantile Exchange	Commodity futures exchange regulator for energy and precious metals brokers
Financial Industry Regulatory Authority	Securities self-regulator

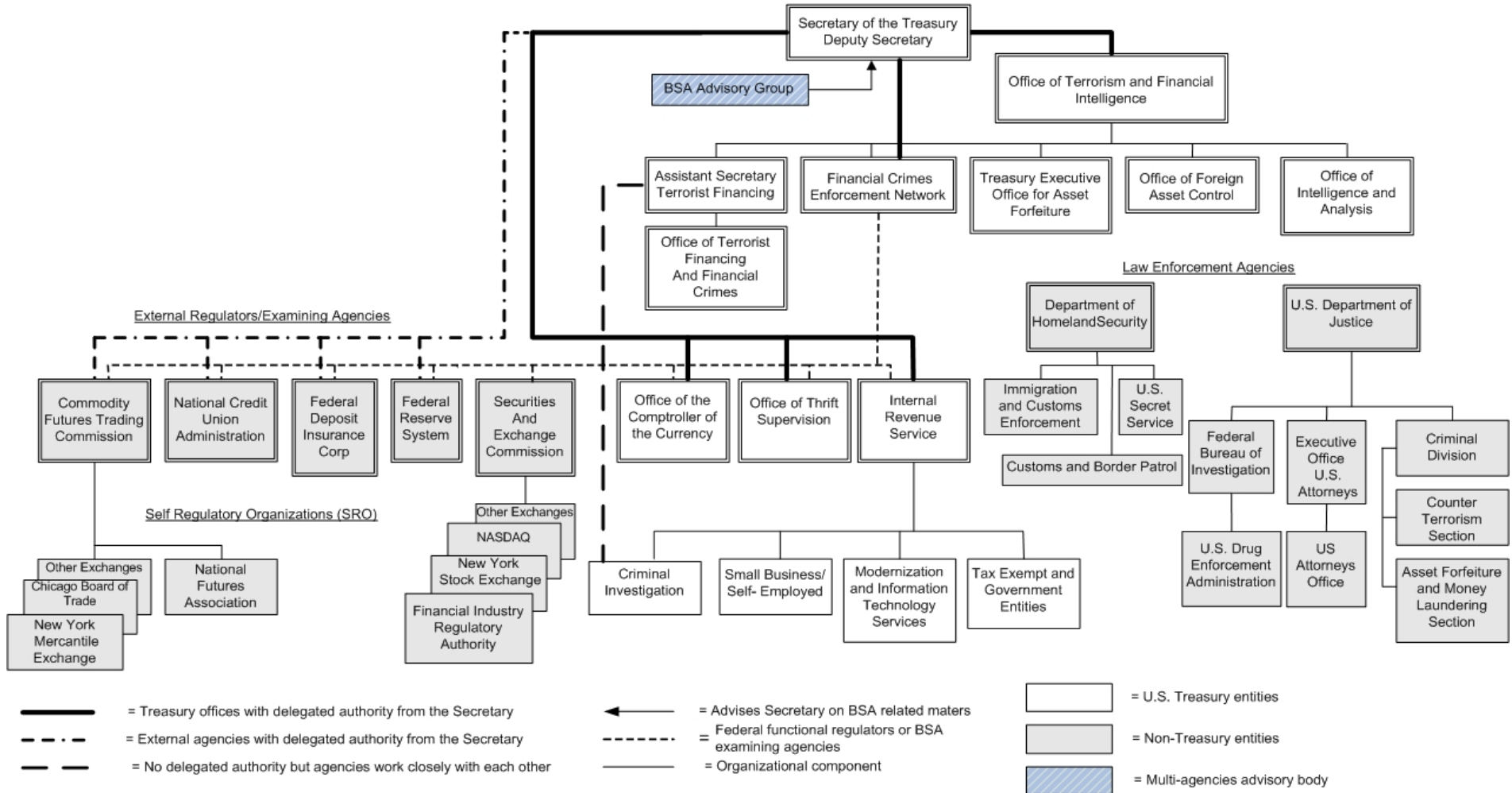
Source: OIG Analysis.

**Table 2. Nine Major LEAs Which Use BSA Data in Investigations and Prosecutions**

<b>Organization</b>	<b>Responsibilities</b>
<b>Treasury Law Enforcement (1)</b>	
Internal Revenue Service - Criminal Investigation	Tax and money laundering investigations
<b>External Law Enforcement (8)</b>	
Criminal Division (DOJ)	Asset forfeiture and counter terrorism
Drug Enforcement Administration (DOJ)	Drug enforcement
Executive Office for United States Attorneys (DOJ)	Federal prosecution
U.S. Attorneys Office (DOJ)	Federal prosecution
Federal Bureau of Investigation (DOJ)	Federal crimes and counter terrorism
Immigration and Customs Enforcement (DHS)	Immigration and customs enforcement
U.S. Secret Service (DHS)	Financial crimes and counterfeiting
Customs and Border Protection (DHS)	Customs border protection

Source: OIG Analysis.

Figure 2: BSA/AML Interagency Relationships



---

## **FinCEN and IRS Have Made Efforts to Improve BSA-Related Coordination and Communication**

FinCEN and IRS have made efforts to improve coordination and communication to ensure consistency in their BSA-related activities. FinCEN and IRS established a joint agreement to formally clarify SAR data management responsibilities that IRS performs for FinCEN. Several MOUs exist for BSA information sharing – one between FinCEN and IRS, several between FinCEN and federal and state regulators for compliance information, and several between IRS and state financial institution regulators. In an effort to ensure consistent application of BSA to all banking organizations, FinCEN also participated in a collaborative effort with the federal banking agencies that resulted in development and release of a uniform manual for BSA compliance examinations. Further, to better meet the needs of LEAs and help focus its efforts, FinCEN would like to receive more feedback from LEAs on how BSA data assisted investigations.

### **Treasury Uses MOUs to Improve Coordination and Communication**

To improve coordination and communication of BSA-related examination and enforcement activities, FinCEN and IRS use MOUs extensively. We identified a total of 80 MOUs. These include an MOU FinCEN and IRS have with each other, MOUs between FinCEN and the federal and state financial institution regulators, and those between IRS and the state financial institution regulators. Among other more recent MOUs are those that FinCEN signed in September 2004 with OCC and OTS and three federal banking agencies outside of Treasury – Federal Reserve, FDIC, and NCUA – that cover BSA compliance-related information sharing between the regulators and FinCEN.



---

FinCEN officials told us that its MOUs are working well and that its communication with the non-Treasury regulators has improved.<sup>29</sup> It should be noted, however, that MOUs are generally voluntary and unenforceable, without provisions for coping with noncompliance.<sup>30 31</sup>

We identified 46 compliance information sharing MOUs that FinCEN has with federal and state regulators. FinCEN has 1 MOU with IRS to help identify MSBs and other financial institutions not in compliance with BSA, 1 MOU with the 5 federal banking regulators to routinely exchange compliance and enforcement information related to financial institutions, 1 MOU with the SEC to routinely exchange examination and enforcement information relating to the SEC-regulated firms' compliance with BSA, and 43 MOUs that FinCEN signed with state financial regulators and Puerto Rico. As of October 1, 2007, FinCEN was pursuing MOUs with 9 states and the District of Columbia, and 2 additional MOUs with already participating states. FinCEN officials told us that 2 states have declined to participate in the voluntary information sharing program.<sup>32</sup> In December 2006, FinCEN and the SEC entered into an MOU whereby they agreed to the routine exchange of examination and enforcement information relating to SEC-regulated firms' compliance with BSA.

In addition, in April 2006, IRS announced that it signed 34 agreements – 33 with states and 1 with Puerto Rico – to begin sharing BSA-related information. The agreements allow IRS and the participating states to share information and leverage their

---

<sup>29</sup> During work on an audit involving the review of a significant enforcement action against Wells Fargo Bank, we found that OCC did not keep FinCEN as informed about the action as FinCEN believed the MOU required. Following completion of the action, FinCEN officials made OCC aware of their position, and OCC revised its internal guidance to prevent a recurrence. *Bank Secrecy Act: OCC Did Not Take Formal Enforcement Action Against Wells Fargo Bank for Significant BSA Deficiencies*, OIG-06-034 (Aug. 18, 2006) <http://www.ustreas.gov/inspector-general/audit-reports/2006/oig06034.pdf>

<sup>30</sup> Under 31 C.F.R. §103.56(e), there is an obligation by federal regulators delegated BSA examination authority to provide reports to FinCEN in the form and at such intervals as directed by FinCEN.

<sup>31</sup> As it is still relatively early in the life of the MOUs, our office has not assessed their overall effectiveness. The *Office of Inspector General Fiscal Year 2008 Annual Plan* includes an audit project related to the effectiveness of the MOUs with the federal banking regulators.

<sup>32</sup> New Mexico and South Carolina are the two states which declined to participate in an MOU with FinCEN. New Mexico did not wish to participate in voluntary information sharing, and South Carolina did not perform BSA exams.

---

resources to ensure that MSBs and other non-bank financial institutions comply with federal and state anti-money laundering laws and regulations, and MSBs comply with their responsibility to register with the federal government and report cash transactions and suspicious activities.

We also identified several other MOUs that did not involve FinCEN or IRS as participants. In 1990, the Secretary, Attorney General, and Postmaster General signed an MOU to aid in conducting money laundering investigations. DHS and DOJ also signed an MOU in May 2003 to coordinate the jurisdiction over BSA-related cases. Under the MOU, Immigration and Customs Enforcement and the FBI both work terrorist financing cases, with FBI having the primary responsibility. The securities industry uses an MOU among the SROs to coordinate examination effort. According to this MOU, when SRO rules governing an area of review are substantially the same, the SROs can decide among themselves which SRO will conduct the examination in a given year. Prior to the consolidation of the regulatory functions of the New York Stock Exchange (NYSE) and the National Association of Securities Dealers (NASD), they shared several areas of review in this manner. For example, anti-money laundering reviews were shared between NYSE and NASD because their rules regarding BSA compliance were substantially the same.

In the table below is a summary of the MOUs signed by FinCEN and IRS.

**Table 3: Number of MOUs FinCEN and IRS Signed for BSA-Related Activities and Parties to the Agreements as of October 1, 2007**

<b>Signers</b>	<b>Subject</b>	<b>No. of MOUs</b>
FinCEN and IRS	BSA compliance information sharing relating to MSBs and non-bank financial institutions	1
FinCEN, OCC, OTS, Federal Reserve, FDIC, and NCUA	BSA compliance information sharing relating to financial institutions	1
FinCEN, 40 states, and Puerto Rico <sup>a</sup>	BSA compliance information sharing relating to financial institutions	43
FinCEN and SEC	BSA compliance information sharing relating to securities firms	1
IRS, 33 states, and Puerto Rico	BSA information sharing relating to MSBs and other non-bank financial institutions	34
<b>Total MOUs</b>		<b>80</b>

Source: OIG

<sup>a</sup> Kansas and Missouri each have two BSA information-sharing MOUs with FinCEN—one for information sharing with the state bank regulatory agencies for banks and one for information sharing with the state credit union regulatory agencies for credit unions. Therefore, although 40 states and one territory have BSA information-sharing MOUs with FinCEN, there are a total 43 MOUs in this category.

Not counted in the above total of 80 MOUs is a service agreement FinCEN signed with IRS in 1995 to collect, store, and provide authorized user access to SAR data. IRS's responsibility to similarly collect, store, and provide authorized access to all other BSA data predates FinCEN's existence and current responsibility and was not established in a signed agreement.

---

## Federal Financial Institutions Examination Council Issued BSA Examination Manual in Collaboration with FinCEN

In an effort to ensure consistent application of BSA to all banking organizations, including commercial banks, savings associations, and credit unions, the Federal Financial Institutions Examination Council<sup>33</sup> released the *Bank Secrecy Act/Anti-Money Laundering Examination Manual* in June 2005. The Federal Reserve, FDIC, OCC, OTS, and NCUA developed the manual in collaboration with FinCEN. State banking agencies played a consultative role through the Conference of State Bank Supervisors. OFAC collaborated on the development of core overview and examination procedures addressing compliance with OFAC-enforced regulations. Because of feedback from examination staff and financial institutions, the Council has made two revisions to the manual to further clarify supervisory expectations. The first revision was in July 2006 and the most recent revision was in August 2007.<sup>34</sup>

The publicly available manual<sup>35</sup> guides examiners through an evaluation of a banking organization's BSA compliance program regardless of the organization's size or business lines. The manual provides the examiner with extensive narrative guidance and resource material as well as suggested examination procedures. The manual emphasizes a banking organization's responsibility to establish and implement risk-based policies, procedures, and processes to comply with BSA and safeguard its operations from money laundering and terrorist financing.

SEC's SROs have also taken steps to ensure consistency in their BSA examination procedures. Prior to the creation of FINRA NASD representatives informed us that NASD had formed a task force with NYSE and SEC to develop guidance for examining compliance with BSA. According to NASD, the guidance was expected to be used by all NASD and NYSE examiners. We were also told that the guidance would not be made public, but NASD, NYSE, and SEC

---

<sup>33</sup> The FFIEC, established under title X of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the examination of financial institutions by the federal bank regulators.

<sup>34</sup> <http://www.ffiec.gov/press/pr072806.htm> and <http://www.ffiec.gov/press/pr082407.htm>

<sup>35</sup> [http://www.ffiec.gov/bsa%5Faml%5Finfobase/pages\\_manual/manual\\_online.htm](http://www.ffiec.gov/bsa%5Faml%5Finfobase/pages_manual/manual_online.htm)

---

planned to have ad hoc meetings to ensure consistency in their examinations and regulations.

### **FinCEN Wants More Information From LEAs About Investigative Results**

FinCEN officials told us that they receive little information from LEAs on the results of investigations based on BSA data or feedback on analyses that FinCEN provides to the agencies in response to their queries. According to FinCEN officials, feedback from the LEAs would be helpful to FinCEN in its efforts to manage BSA data systems to ensure the needs of the agencies are met. We were told that LEAs will sometimes inform FinCEN about the results of their investigations, but this often does not happen until years after FinCEN provided the BSA data or analyses to the LEA. One FinCEN official did say, however, that FinCEN could improve its outreach to the LEAs so LEAs would keep FinCEN better informed of case results.

Feedback would benefit FinCEN since it has been moving to increase its analytical capability and provide LEAs with investigative leads in accordance with the USA PATRIOT Act. In this regard, Section 361 of the act calls for FinCEN to analyze and disseminate data of possible criminal activity to LEAs and to support their ongoing investigations. In May 2006, we reported on FinCEN's efforts under this act to increase its complex analysis of BSA data and provide law enforcement with new leads or clues regarding possible terrorist financing or money laundering. We found that FinCEN had made limited progress in this area.<sup>36</sup> We also discussed BSA data analysis in 2006 and 2007 in gathering information for our current report. One LEA official told us that FinCEN was a leader on financial intelligence, but did not provide much trend and analysis data and needs to improve in this area. Another LEA official said that LEAs were quite comfortable performing their own analyses of BSA data. This raises a question of how best can FinCEN meet its mandated responsibility to

---

<sup>36</sup> *Terrorist Financing/Money Laundering: FinCEN Has Taken Steps to Better Analyze Bank Secrecy Act Data But Challenges Remain*, OIG-06-030 (May 18, 2006).

---

provided analytical support to law enforcement. In this regard, we believe continued and improved outreach by FinCEN with LEAs is essential to define FinCEN's role in this area.

## **BSA-Related Cost and Performance Data Are Limited**

Neither cost data nor performance results data are readily available or sufficiently complete to aid in assessing and coordinating BSA enforcement and compliance efforts.

### **The Full Cost of Managing BSA-Related Activities Is Unknown**

The amount of resources expended on BSA-related activities by Treasury organizations is not readily available. Furthermore, the amount of resources devoted government-wide to BSA-related activities is unknown. We found that for the most part, agencies do not keep track of the resources, either dollars or people, devoted to BSA-related activities.

Although Treasury reported<sup>37</sup> that it spent about \$420 million in fiscal year 2006, with a workforce of nearly 2,100 employees, to fight financial crimes and the financial war on terror, it is not clear how the amount expended can be associated with the BSA-related activities of the various components within Treasury. Additionally, these figures do not include the costs expended by organizations outside of Treasury, such as Federal Reserve, FDIC, and the FBI, that have BSA-related regulatory or law enforcement roles.

Treasury does have some cost data available for its organizations involved in BSA-related activities. However, these data do not provide a complete picture for the Department. FinCEN, the administrator of BSA, incurred a total net cost of \$101.5 million in fiscal year 2006. This amount includes \$24.2 million in imputed financing sources from the IRS for the collection and processing of BSA data and \$1.9 million of imputed cost with the Office of Personnel Management. We also obtained BSA-related estimated costs for several components of IRS. During fiscal year 2005, investigative costs for IRS Criminal Investigation casework related

---

<sup>37</sup> Treasury's FY 2006 Performance and Accountability Report.  
[http://www.treas.gov/offices/management/dcfo/accountability-reports/2006-par/Full\\_Version.pdf](http://www.treas.gov/offices/management/dcfo/accountability-reports/2006-par/Full_Version.pdf)

---

to BSA was approximately \$64.1 million with 454 employees; and examination costs for the IRS Small Business Self Employed unit's BSA-related work was about \$62 million with a workforce of 604. OCC estimated that it spent about \$13.7 million on BSA-related responsibilities in fiscal year 2005. OTS has field examination hours available on timesheets but did not capture these data in its management information system and could not provide an estimate of the cost of carrying out the examinations.

Most of the non-Treasury organizations with BSA-related responsibilities that we contacted do not track the resources they expend on BSA. A few, however, tracked hours related to BSA. For example, FDIC estimated that for fiscal year 2005, it devoted approximately 120,000 examination hours to BSA-related work.

### **Available Performance Data Are Not Sufficient to Assess BSA-Related Activities**

Organizations with BSA enforcement and compliance responsibilities generally did not use performance measurement data to assess the effectiveness of their BSA-related activities. Most of the organizations that we contacted have not developed performance measures for BSA-related activities nor do they have management information systems that collect BSA performance data.

### Office of Management and Budget's Assessments of Treasury BSA-related Programs Yields Mixed Results

In its 2006 evaluation of Treasury BSA-related programs, the Office of Management and Budget (OMB) reported varying levels of success.<sup>38</sup> In terms of FinCEN's BSA administration, OMB rated the program as "results not demonstrated"<sup>39</sup> primarily because the program had no long term performance measures or targets to indicate mission accomplishments. OMB noted that the program did have annual performance goals which focus on BSA

---

<sup>38</sup> The evaluation for fiscal year 2006 is the latest available OMB evaluation of BSA-related programs..

<sup>39</sup> Results not demonstrated means that the program has not been able to develop acceptable performance goals or collect data to determine whether it is performing.

---

implementation. OMB also noted that good progress has been made in executing MOUs between FinCEN and the regulators.

With regard to BSA analysis, OMB rated Treasury's (i.e., FinCEN's) effort as "adequate."<sup>40</sup> OMB found that the program has long term performance measures, but noted that more time is needed to evaluate the usefulness and impact of the program's analysis activities. Specifically, no evaluation has yet been made to determine the effectiveness of FinCEN's BSA data analysis efforts in combating terrorism, money laundering, and financial crime.

OMB rated FinCEN's data collection, retrieval, and sharing as "moderately effective,"<sup>41</sup> but noted that more work is needed to measure the quality of data collected. The program has shown substantial increases in users accessing data directly, the percentage of filings submitted electronically, and improved cost effectiveness for electronic filings.

#### Specific BSA Performance Measures Have Not Been Established by Most Organizations

We contacted organizations with BSA-related responsibility to determine whether they had established performance measures for their BSA-related activities. Only FinCEN and IRS's Small Business Self Employed unit, which performs compliance examinations of casinos, MSBs, and certain other non-bank financial institutions, had performance measures for BSA-related activities or that could be construed to include BSA activity. In this regard, FinCEN had specific BSA-related performance measures. IRS internally measured certain outputs from its BSA-related activities.

FinCEN had the following four performance measures in fiscal year 2006 and 2007 related to BSA management or enforcement:

---

<sup>40</sup> Adequate describes a program that needs to set more ambitious goals, achieve better results, improve accountability or strengthen its management practices.

<sup>41</sup> A program rated Moderately Effective has set ambitious goals and is well-managed. A Moderately Effective program is likely to need to improve its efficiency or address other problems in the program's design or management in order to achieve better results.



- 
- Percentage of customers finding FinCEN's analytic support valuable
  - Percentage of customers satisfied with BSA E-Filing<sup>42</sup>
  - Number of federal and state regulators with which FinCEN has established information-sharing MOUs
  - Average time to process enforcement matters (in years)

Data from Treasury's 2006 and 2007 Performance and Accountability Reports showed that FinCEN met its target each year for three of the four measures. :

- Analytic support (goal not met in 2006, met in 2007): In 2006 FinCEN reported its baseline goal for customers finding its analytic support valuable as 75 percent. FinCEN reported that, based on data from surveys on strategic analytical products, investigative case reports, and investigative targets, 69 percent of customers found its analytic support valuable. FinCEN did not meet its goal. FinCEN indicated that it would set future targets based on a different measure. In 2007, the actual result was 82 percent satisfaction.
- Satisfaction with BSA E-Filing (goal met in 2006 and 2007): In 2006, FinCEN reported 92 percent of its customers were satisfied with BSA Direct E-Filing. That percentage improved to 94 percent in 2007. FinCEN had set its baseline goal for customers satisfied with BSA Direct E-Filing at 90 percent. FinCEN met its goal and will assess whether a more ambitious target is achievable.
- Information sharing MOUs (goal met in 2006 and 2007): FinCEN had a baseline goal of having established 45 information-sharing MOUs with federal and state regulators by the end of fiscal year 2006. FinCEN met its goal, with a total of 48 MOUs in place at the end of the fiscal year. In 2007, FinCEN reported 50 MOUs in place.

---

<sup>42</sup> BSA E-Filing is the system FinCEN developed that allows financial institutions to electronically file BSA reports.

- 
- Processing enforcement matters (goal met in 2006, not met in 2007): FinCEN had a goal of processing enforcement matters within an average of 1 year. FinCEN met its goal in 2006, with an average time to process enforcement matters of 1.0 years. The average time increased slightly to 1.1 years in 2007.

IRS Small Business Self Employed unit developed numerous output-focused (internal use) measures for its BSA-related activity. These measures include data on investigative case closures by type (such as money transmitter, check casher, casino, or other entity), hours worked per case, referrals to IRS Criminal Investigation, and referrals to examination. Such measures, however, do not provide insight into how well the BSA program is functioning.

#### Federal Audit Reports Cite BSA Management and Enforcement Weaknesses

Over the last several years, reports issued by the Government Accountability Office, the FDIC OIG, the Treasury Inspector General for Tax Administration, and our office have identified weaknesses in BSA management and enforcement activities. More specifically, the reports identified that the BSA program is hampered by insufficient financial institution compliance with reporting requirements, inadequate federal regulator enforcement when reporting deficiencies are identified, and a need for improvement in the quality, analysis, and management of BSA data. These reports are listed in appendix 3.

#### Few Agencies Separately Track BSA Work

As previously discussed, BSA compliance oversight is the responsibility of many federal regulators. In our interviews with these organizations, we asked whether they captured data on BSA-related work in their respective management information systems. We were told by 7 of the 8 federal regulators – NCUA, FDIC, Federal Reserve, SEC, OCC, OTS, and IRS (IRS Small Business Self Employed) – that BSA-related work was tracked in some fashion. Only CFTC did not track BSA-related activities. In addition, all LEAs, which use BSA data to assist their investigations, track their

---

case work, but they do not maintain BSA-related case work separately.

Of the seven federal regulators tracking BSA-related activity data, two organizations – IRS Small Business Self Employed and NCUA – have separate management information systems specifically devoted to BSA-related work. In October 2004, IRS Small Business Self Employed established a system to support its newly established Office of Fraud/BSA. The system tracks time devoted to BSA-related activities during examinations, findings, and referrals to FinCEN and IRS Criminal Investigation. The system also provides ad hoc reports for those managing BSA workload. NCUA maintains a separate system that tracks BSA violations, copies of written agreements for corrective action, and other related information. In addition, it maintains a Compliance Violation Report Log, which collects BSA data on compliance violations.

## **Concluding Observations**

BSA is an essential tool in the government's efforts to combat money laundering and terrorist financing. Congress has given the Secretary of the Treasury extraordinary and discretionary authority to manage and enforce BSA. The Secretary has delegated the authority to FinCEN to enact regulations delineating the types of records that financial businesses and institutions are required to maintain and the manner in which they must be reported. In enforcing these regulations, FinCEN has a variety of civil, criminal, and other measures available, and can petition the federal courts to enforce any such sanctions.

Although the Under Secretary has direct authority over FinCEN, the agency responsible for administering BSA, TFI lacks direct authority over most of the other entities with BSA-related responsibility. These include the federal regulators responsible for BSA compliance by the financial institutions and the numerous federal LEAs, which use BSA data for investigatory purposes. Without direct line authority, it would be difficult to expect that TFI and FinCEN can give complete assurance that BSA program objectives are being met. To increase the Under Secretary's (Treasury's) authority to provide greater assurance and accountability would

---

require significant government restructuring, and may not achieve any additional benefit. Evaluating the cost/benefit of such a restructuring was not within the scope of our review.

To strengthen the current BSA regulatory framework, Treasury, through FinCEN and IRS, established MOUs to foster coordination and communication on BSA-related matters. However, it is too early to tell how well these MOUs are working and whether the information sharing efforts through the MOUs are sustainable in the long term. Future work by our office is planned to look at this area.

Also of concern, a good structure does not exist for federal LEAs to inform FinCEN regularly of the extent to which FinCEN's analysis of BSA data is useful to them; such feedback, when it occurs, can be years after the fact. Moreover, BSA cost and performance data is currently very limited. We believe that better cost and performance data could help the Under Secretary, FinCEN, and other stakeholders determine whether BSA resources are being appropriately directed, or at least, to identify any anomalies in the level of resources devoted to BSA by individual entities with BSA oversight responsibilities.

Accordingly, we are providing recommendations to the Director of FinCEN that are intended to improve program coordination and communication.

## Recommendations

We recommend that the Director of FinCEN do the following:

1. Establish a plan to periodically assess whether the MOUs between FinCEN and other federal and non-federal organizations are achieving their intended purpose of improving and enhancing the level of interagency cooperation in the area of BSA examination and compliance and, if shortfalls are identified, appropriate changes are made to these agreements.

---

### Management Comments

FinCEN concurred. FinCEN said its MOUs with partner regulators include a requirement that signatories meet at least annually to evaluate the effectiveness of information sharing. The meetings provide an opportunity to discuss respective uses of shared information, solicit views on ways in which to enhance cooperation, and allow all parties to discuss potential changes to the MOUs. FinCEN's Office of Compliance also holds periodic liaison meetings. In February 2008, FinCEN commissioned a customer satisfaction survey of partner regulators with which it has concluded MOUs. The survey will measure how partner regulators rate the value of information exchanged. FinCEN considers the recommendation closed.

### OIG Comments

We believe that FinCEN's actions, if implemented as described, meet the intent of our recommendation.

2. Determine a means for ensuring that FinCEN and law enforcement agencies sufficiently communicate about the extent to which FinCEN should use its analytic capabilities to support the agencies in their investigations.

### Management Comments

FinCEN concurred. FinCEN said it engages in a number of activities designed to enhance communications with law enforcement agencies and to determine ways that the bureau's analytical efforts can complement law enforcement investigative efforts. FinCEN cited examples of these activities, including having representatives from a number of federal law enforcement agencies on-site at FinCEN and four liaisons that perform outreach with state and local law enforcement in their geographic areas. FinCEN also will administer a survey instrument to solicit input from law enforcement customers on potential strategic initiatives and methods to ensure FinCEN analytical products and services meet their investigative needs. FinCEN estimates it will administer and complete this survey by December 2008.

---

### OIG Comments

We believe that FinCEN's actions, if implemented as described, meet the intent of our recommendation.

3. Work with Treasury and non-Treasury regulatory organizations to develop BSA-related performance measures or indicators to track results achieved.

### Management Comments

FinCEN concurred. Subsequent to completion of our audit fieldwork, FinCEN developed a BSA-related performance measure to track results achieved from Treasury and non-Treasury regulatory organizations. The measure reflects the percentage of bank examinations conducted by the federal banking agencies indicating a systemic failure of anti-money laundering programs. In addition, as noted above, in February 2008 FinCEN commissioned a customer satisfaction survey of partner regulators with which it has concluded MOUs to measure how regulators rate the value of information exchange under the MOUs and identify ways to enhance BSA examination and compliance cooperation. FinCEN will evaluate the survey results and set future targets. FinCEN estimates it will complete action on this recommendation by September 2008.

### OIG Comments

We believe that FinCEN's actions, if implemented as described, meet the intent of our recommendation.

---

\* \* \* \* \*

We would like to extend our appreciation to TFI and the various other agencies we contacted, both inside and outside of Treasury, for the cooperation and courtesies extended to our audit staff during the audit. If you have any questions, please contact me at at (617) 223-8640.

/s/  
Donald P. Benson  
Director

The objective of this review was to identify and describe Treasury's authority and responsibility for the administration of the Bank Secrecy Act (BSA). To meet our objective, we gathered information to answer the following questions:

- Which major domestic organizations are involved in the enforcement and compliance of BSA and what authority does Treasury have over the BSA-related efforts of these organizations?
- How does Treasury direct and coordinate BSA enforcement and compliance?
- Are government-wide BSA costs and performance data available to link resources to results?

We began this review by determining the roles and relationships of all government entities, including self-regulatory organizations, involved with managing and enforcing BSA and the USA PATRIOT Act. We determined which entities, other than FinCEN which administers BSA, had a significant role in assisting with BSA compliance and enforcement. This involved researching the public information available on organizations' Web sites and interviewing representatives from those organizations. We focused on the organizations' missions and their statutory and regulatory authorities and responsibilities. We included law enforcement agencies in the discussion of agencies that use BSA data because these federal users, through their investigative efforts, could identify concerns and provide information to Treasury and, more specifically FinCEN that could improve management of the program.

We requested information from each organization about its funding, how much it specifically allocates to BSA management and enforcement, the amount of resources it devotes to BSA-related activities, its management information systems, and its performance measures.

We reviewed (1) laws and regulations pertaining to BSA and the USA PATRIOT Act, (2) congressional testimony by officials responsible for BSA and the USA PATRIOT Act in their respective organizations, (3) Government Accountability Office reports on BSA and the USA PATRIOT Act, (4) Congressional Research



Service reports for Congress, (5) Department of the Treasury Directives and Orders, (6) the U.S. Money Laundering Threat Assessment 2005, (7) various Treasury and non-Treasury Office of Inspector General audits, and (8) memoranda of understanding. We also interviewed the Under Secretary for Terrorism and Financial Intelligence and representatives from 28 organizations--26 entities within the federal government and 2 self-regulatory organizations.

We conducted our review from February 2005 to December 2006 in accordance with generally accepted government auditing standards. We continued to seek clarification of certain information from various entities through September 2007.

This appendix includes a chronology and brief description of the key federal laws supporting BSA and anti-money laundering efforts in the U.S.

**Bank Secrecy Act of 1970.**<sup>43</sup> The Bank Secrecy Act (BSA) focuses on financial institutions' responsibility for maintaining records and reports which help identify the source, volume and movement of currency and other monetary instruments transmitted into or out of the United States. This information is passed on to federal officials so that law enforcement can apprehend criminals by following money trails.<sup>44</sup> The act contains both civil and criminal penalties for violations of its reporting requirements. Regulations promulgated under the act require domestic financial institutions to file reports for cash transactions exceeding \$10,000<sup>45</sup> and to file a SAR for transactions exceeding \$5,000<sup>46</sup> that the institution knows, suspects, or has reason to suspect is intended to evade any federal law or regulation, involves illegally obtained funds, or has no business or apparent lawful purpose.<sup>47</sup>

**Money Laundering Control Act of 1986.**<sup>48</sup> The Money Laundering Control Act of 1986 criminalizes money laundering, which the act defines as conducting or attempting to conduct a financial transaction with property derived from an unlawful activity with the purpose of concealing or disguising the source. The law also criminalizes structuring or the attempt to structure a financial transaction to avoid the reporting requirement. In addition, the act makes it a crime to knowingly engage in a monetary transaction involving unlawfully gained property with a value greater than \$10,000.

---

<sup>43</sup> Pub. .L. No. 91-508 (codified, as amended, at 12 U.S.C. § 1829b; 12 U.S.C. §§ 1951-1959; 31 U.S.C. § 5311 et seq.).

<sup>44</sup> 31 U.S.C. § 5312(a)(2) defines the term "financial institution" to include banks, credit unions, thrifts, broker-dealers, insurance companies, money services businesses, pawnbrokers, casinos, auto dealers, travel agencies, etc.

<sup>45</sup> 31 C.F.R. 103.22(b)(1).

<sup>46</sup> The threshold is generally \$5,000 but for MSBs it is \$2,000 at the point of sale.

<sup>47</sup> 31 C.F.R. 103.18.

<sup>48</sup> Pub. .L. No. 99-570, § 1352 (codified, as amended, at 18 U.S.C. §§ 1956-1957).

**Annunzio-Wylie Anti-Money Laundering Act of 1992.**<sup>49</sup> This law authorizes the Secretary of the Treasury to guard against money laundering through financial institutions and to require those institutions to implement anti-money laundering programs. Under this law, the Secretary could require filings of SARs. With this law, Congress also increased the penalties, including the revocation of their charters, for depository institutions that violate federal anti-money laundering laws. The act also requires the Secretary to establish a Bank Secrecy Act Advisory Group, whose purpose is to provide Treasury and FinCEN with advice and expertise on BSA-related matters, including prospective regulations. In March 1994, the Secretary of the Treasury announced the establishment of the BSA Advisory Group, which is comprised of high-level representatives from financial institutions, federal law enforcement agencies, regulatory authorities, and others from the private and public sectors.

**Money Laundering Suppression Act of 1994.**<sup>50</sup> This law was enacted to ease the large influx of currency transaction reports being filed in the early 1990s. The statutory amendments mandate exemptions from currency transaction reporting in the case of customers that are other banks, certain governmental entities, or businesses for which reporting would serve little or no law enforcement purpose. The amendments also authorize Treasury to exempt certain other businesses which regulators were having difficulty analyzing. The act directs the Secretary of the Treasury to designate a single agency to receive SAR filings;<sup>51</sup> and clarifies BSA's applicability to state-chartered and tribal gaming establishments.<sup>52</sup> It also requires all money transmitters, whether or not they are registered as a money transmitter in any state, to register with the Secretary of the Treasury.<sup>53</sup>

**Money Laundering and Financial Crimes Strategy Act of 1998.**<sup>54</sup>  
This law directs the President, acting through the Secretary of the

---

<sup>49</sup> Title XV of P.L. 102-550 (codified at various sections of Titles 12 and 31 of the U.S. Code).

<sup>50</sup> Title IV of Pub. L. No. 103-325 (codified at various sections of title 31 of the U.S. Code).

<sup>51</sup> 31 U.S.C. § 5318 note.

<sup>52</sup> 12 U.S.C. § 5312(a)(2)(X).

<sup>53</sup> 31 U.S.C. § 5330(a)(1)

<sup>54</sup> P.L. 105-310 (codified at 31 U.S.C. § 5340 et seq.).

Treasury in consultation with the Attorney General, to develop a national strategy to fight money laundering and related financial crimes. The law calls for the designation of certain areas as areas in which money laundering and related financial crimes are extensive or present a substantial risk and shall be an element of the national strategy. It also provides for grants to state and local law enforcement units to help fight money laundering in such areas.<sup>55</sup>

**Title III of the USA PATRIOT Act of 2001.**<sup>56</sup> In response to the September 11 terrorist attacks, Congress passed the USA PATRIOT Act. The act requires each financial institution to establish an anti-money laundering program. The program must include development of internal procedures, designation of a compliance officer, an employee training program, and an independent audit program to test the institution's anti-money laundering program.<sup>57</sup>

The act also requires that broker-dealers file SARs<sup>58</sup> and that anyone engaged in a trade or business who receives \$10,000 cash in one transaction file a report with FinCEN identifying the customer and specifying the amount and date of the transaction.<sup>59</sup> The act makes it a crime to knowingly conceal more than \$10,000 in cash or other monetary instruments while attempting to transport it into or outside of the United States.<sup>60</sup>

Title III of the act is the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001.<sup>61</sup> It amended the BSA to allow the Secretary of the Treasury to require domestic financial institutions and agencies to take special measures if reasonable grounds exist that a jurisdiction, financial institution, or types of

---

<sup>55</sup> 31 U.S.C. § 5354(a).

<sup>56</sup> Pub. L. No. 107-56. The acronym USA PATRIOT stands for "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorists."

<sup>57</sup> 31 U.S.C. § 5318(h).

<sup>58</sup> Pub. L. No. 107-56, title III, § 356.

<sup>59</sup> 31 U.S.C. § 5331.

<sup>60</sup> 31 U.S.C. § 5332.

<sup>61</sup> Pub. L. No. 108-458, § 6202, named title III the International Money Laundering Abatement and Financial Antiterrorism Act of 2001..

accounts are of primary money laundering concern. Specific special measures would be taken only after consultation with, among others, the Chairman of the Federal Reserve and the Secretary of State.<sup>62</sup>

The special measures generally involve (1) retaining more specific records on financial institutions; (2) obtaining information on beneficial ownership of accounts; and (3) obtaining information relating to certain payable-through and correspondent accounts.<sup>63</sup> The Secretary may prohibit or restrict the opening of these payable-through and correspondent accounts,<sup>64</sup> and U.S. financial institutions must establish internal procedures to detect and report money laundered through these accounts.<sup>65</sup> In addition, the act prohibits financial institutions and broker-dealers from maintaining correspondent accounts for foreign “shell banks.”<sup>66</sup>

Title III requires each financial institution to establish an anti-money laundering program. The program must include development of internal procedures, designation of a compliance officer, an employee training program, and an independent audit program to test the institution’s anti-money laundering program.<sup>67</sup> In addition, upon request, financial institutions must provide information on their anti-money laundering compliance within 120 hours of the request.<sup>68</sup> The act also requires financial institutions applying to merge under the Federal Deposit Insurance Act or the Bank Holding Act to show some effectiveness in combating money laundering.<sup>69</sup>

Title III requires that broker-dealers file SARs<sup>70</sup> and that anyone engaged in a trade or business who receives \$10,000 cash in one

---

<sup>62</sup> 31 U.S.C. § 5318A (a).

<sup>63</sup> Under the PATRIOT Act, a “correspondent account” is defined as an account that is established by an institution for a foreign bank to handle various financial transactions related to the foreign bank.

<sup>64</sup> 31 U.S.C. § 5318A (b)

<sup>65</sup> 31 U.S.C. § 5318(i)

<sup>66</sup> 31 U.S.C. § 5318(j); 31 CFR 103.175 (h)(B)(2)(i) defines a foreign shell bank as being a foreign bank without a physical presence in any country.

<sup>67</sup> 31 U.S.C. § 5318(h).

<sup>68</sup> 31 U.S.C. § 5318(k)(2).

<sup>69</sup> 12 U.S.C. § 1842(c)(6); 12 U.S.C. § 1828(c)(11).

<sup>70</sup> Pub. L. No. 107-56, title III, § 356.

transaction file a report with FinCEN identifying the customer and specifying the amount and date of the transaction.<sup>71</sup> The act also makes it a crime to knowingly conceal more than \$10,000 in cash or other monetary instruments while attempting to transport it into or outside of the United States.<sup>72</sup>

Title III made FinCEN a bureau within Treasury<sup>73</sup> and directed the Secretary to establish a “highly secure network” that allows the BSA reports electronically.<sup>74</sup> That would allow FinCEN to provide financial institutions with alerts and other information regarding suspicious activities.

**Intelligence Reform and Terrorism Prevention Act of 2004.** With this law, Congress authorized \$16.5 million for FinCEN to develop the BSA Direct program, which is designed to improve the “highly secure network,” required by Title III of the USA PATRIOT Act. BSA Direct was to provide authorized law enforcement and financial regulatory agencies with Web-based access to FinCEN data. The law also authorized an additional \$19 million to provide advanced analytical tools for using data, improve networking to support the FinCEN systems, improve the effectiveness of FinCEN’s Office of Compliance, and to provide development of, and training in the use of, technology to detect and prevent financial crimes and terrorism.<sup>75</sup>

**USA PATRIOT Improvement and Reauthorization Act of 2005.** This reauthorizing legislation enhanced penalties for terrorism financing;<sup>76</sup> amended the Racketeer-Influenced and Corrupt Organizations Act (commonly known as RICO) by adding illegal money transmitters to the definition of “racketeering activity;”<sup>77</sup> and closed a loophole concerning money laundering through informal money transfer networks.<sup>78</sup>

---

<sup>71</sup> 31 U.S.C. § 5331.

<sup>72</sup> 31 U.S.C. § 5332.

<sup>73</sup> 31 U.S.C. § 310.

<sup>74</sup> Pub. L. No. 107-56, § 362 (codified at 31 U.S.C. § 310 note).

<sup>75</sup> Pub. L. No. 108-458, § 6101(2).

<sup>76</sup> Pub. L. No. 109-177, § 402.

<sup>77</sup> Pub. L. No. 109-177, § 403.

<sup>78</sup> Pub. L. No. 109-177, § 405.

This appendix lists Treasury Office of Inspector General BSA-related audit reports issued from fiscal year 1999 through fiscal year 2007. It also lists selected BSA-related reports issued by other audit organizations from fiscal year 2000 through fiscal year 2007.

Treasury Office of Inspector General

*FinCEN's Suspicious Activity Reporting System*, OIG-99-032  
(Jan 25, 1999)

*Financial Crimes Enforcement Network Office of Compliance and Regulatory Enforcement*, OIG-00-014 (Nov. 5, 1999)

*Comptroller of the Currency: OCC Examination of Foreign Branch Offices Compliance With the Bank Secrecy Act*, OIG-00-060 (Mar. 3, 2000).

*Office of the Comptroller of the Currency Bank Secrecy Act Examinations Did Not Always Meet Requirements*, OIG-00-027  
(Jan. 3, 2000).

*Assessment of Financial Crimes Enforcement Network's Strategic Plan for Fiscal Years 1997-2002*, OIG-CA-00-005 (May 8, 2000)

*Money Laundering: Review of the Financial Crimes Enforcement Network's Use of Artificial Intelligence to Combat Money Laundering*, OIG-01-091 (Sept. 18, 2001).

*Bank Secrecy Act: OCC BSA Examination Coverage of Trust and Private Banking Services*, OIG-02-016 (Nov. 29, 2001).

*Money Laundering/Bank Secrecy Act: FinCEN Needs to Strengthen Its Efforts to Deter and Detect Money Laundering in Casinos*, OIG-03-001 (Oct. 1, 2002).

*Information Technology: Controls Over the Financial Crimes Enforcement Network's Law Enforcement Data Needs Improvement*, OIG-03-007 (Oct. 23, 2002).

*FinCEN: Reliability of Suspicious Activity Reports*, OIG-03-035  
(Dec. 18, 2002).

*OTS: Enforcement Actions Taken for BSA Violations*, OIG-03-095  
(Sep. 23, 2003).

*Terrorist Financing/Money Laundering: Status Report on the  
Establishment of the FinCEN Office of Compliance*, OIG-05-030  
(Mar. 10, 2005).

*FinCEN: Heightened Management Attention Needed Over  
Longstanding SAR Data Quality Problems*, OIG-05-033 (Mar. 23,  
2005).

*Terrorist Financing/Money Laundering: Additional Outreach and  
System Enhancements are Needed to Encourage Greater Use of  
FinCEN's BSA E-Filing*, OIG-05-034 (Mar. 31, 2005).

*Bank Secrecy Act: Major Challenges Faced by FinCEN in Its  
Program to Register Money Services Businesses*, OIG-05-050  
(Sep. 27, 2005).

*Terrorist Financing/Money Laundering: FinCEN Has Taken Steps to  
Better Analyze Bank Secrecy Act Data But Challenges Remain*,  
OIG-06-030 (May 18, 2006).

*Bank Secrecy Act: OCC Did Not Take Formal Enforcement Action  
Against Wells Fargo Bank for Significant BSA Deficiencies*, OIG-06-  
034 (Aug. 18, 2006).

Treasury Inspector General for Tax Administration

*The Program for Ensuring Compliance With Anti-Money Laundering  
Reporting Requirements Should Be Improved*, TIGTA-2001-40-024  
(Dec. 26, 2000).

*Additional Efforts Are Needed to Improve the Bank Secrecy Act  
Compliance Program*, TIGTA-2004-30-68 (Mar. 12, 2004).



Federal Deposit Insurance Corporation Office of Inspector General

*FDIC's Supervision of a Financial Institution's Compliance With the Bank Secrecy Act*, FDIC OIG 05-008 (Mar. 2005).

Government Accountability Office

*USA PATRIOT Act: Additional Guidance Could Improve Implementation of Regulations Related to Customer Identification and Information Sharing Procedures*, GAO-05-412 (May 2005).

*Information Security: Internal Revenue Service Needs to Remedy Serious Weaknesses Over Taxpayer and Bank Secrecy Act Data*, GAO-05-482 (Apr. 2005).

*Bank Secrecy Act: Opportunities Exist for FinCEN and the Banking Regulators to Further Strengthen the Framework for Consistent BSA Oversight*, GAO-06-386 (Apr. 2006).

*Bank Secrecy Act: FinCEN and IRS Need to Improve and Better Coordinate Compliance and Data Management Efforts*, GAO-07-212 (Dec. 2006).

Appendix 4  
Management Response

---

April 2, 2008

**MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FREEDMAN**

**FROM:** James H. Freis, Jr. /s/  
**SUBJECT:** *Management Response to the Draft Audit Report –  
Responsibility for Bank Secrecy Act Is Spread Across  
Many Organizations*

I appreciate your review of the many organizations that have responsibilities associated with the Bank Secrecy Act (BSA) and the law enforcement agencies who utilize the BSA information. As the administrator of the BSA, it is essential that FinCEN effectively collaborate with federal and state regulators, and the compliance MOUs have significantly improved FinCEN's collaboration with them. Additionally, the need to communicate with law enforcement to identify opportunities to better support their investigations is ongoing, as criminals continually look for opportunities to utilize the financial system to facilitate illicit activity.

Communication between FinCEN and law enforcement agencies continually evolves. FinCEN's more recent efforts and those currently underway effectively demonstrate the bureau's commitment to strengthening collaborative efforts with law enforcement agencies. Please refer to the attachment for more detail on the planned corrective actions in response to each of the audit recommendations. If you have any questions, please feel free to contact Becky Martin, Assistant Director, Office of Financial Management, on 703-905-3860.

Attachment

Appendix 4  
Management Response

**Attachment: FinCEN – Planned Corrective Actions**

- 1. Establish a plan to periodically assess whether the MOUs between FinCEN and other federal and non-federal organizations are achieving their intended purpose of improving and enhancing the level of interagency cooperation in the area of BSA examination and compliance and, if shortfalls are identified, appropriate changes are made to these agreements.**

Response: Concur. FinCEN MOUs with partner regulators include a requirement that the signatories meet at least annually to evaluate the effectiveness of information sharing.<sup>1</sup> These meetings provide an opportunity for FinCEN and partner regulators to discuss respective uses of shared information, solicit views on ways in which to enhance cooperation, and allow all parties to discuss potential changes to the MOUs. In addition, FinCEN's Office of Compliance holds periodic liaison meetings and engages in ongoing communication with partner regulators to discuss case processing and other facets of the information sharing process.

In February 2008, FinCEN commissioned a customer satisfaction survey of partner regulators with which it has concluded MOUs. The survey will measure how partner regulators rate the value of information exchange under the MOUs and identify ways to enhance BSA examination and compliance cooperation. Survey results will assist in ensuring that information exchange under the MOUs is productive for both FinCEN and partner regulators.

Status: Closed.

- 2. Determine a means for ensuring that FinCEN and law enforcement agencies sufficiently communicate about the extent to which FinCEN should use its analytic capabilities to support the agencies in their investigations.**

Response: Concur. FinCEN engages in a number of activities designed to enhance communications with law enforcement agencies and to determine ways that the bureau's analytical efforts can complement law enforcement investigative efforts. Examples of these activities include:

- Representatives from the FBI, DEA, ICE, IRS-CI, the USSS and several other federal law enforcement agencies are on-site at FinCEN. FinCEN conducts monthly formal law enforcement round table meetings to discuss current needs and issues. Additionally, there is an ongoing relationship between these agency representatives and FinCEN personnel to discuss analysis needs, collaborative projects, or suggestions for FinCEN studies;
- FinCEN has four liaisons that perform outreach with state and local law enforcement in their assigned geographical area;

<sup>1</sup> All FinCEN MOUs include the following language: "The [SIGNATORIES] shall meet, no less often than annually, to discuss the operation of the MOU and to identify any issues or adjustments that may be required. During such meetings, FinCEN will provide an update on how the information provided by the [OTHER SIGNATORIES] under this MOU has been used or applied by FinCEN. The [SIGNATORIES] will also evaluate the effectiveness of the information sharing in meeting the goals outlined above."

Appendix 4  
Management Response

**Attachment: FinCEN – Planned Corrective Actions**

- FinCEN has three designated special agents assigned as liaisons to federal law enforcement agencies;
- FinCEN has two personnel assigned to the Federal Law Enforcement Training Center that perform outreach with the 85 FLETC partner agencies;
- FinCEN has six personnel assigned to the High Intensity Money Laundering and Financial Crimes (HIFCA) areas who work with joint task forces, U.S. Attorney's Offices and state and local law enforcement;
- FinCEN meets with representatives of the Organized Crime Drug Enforcement Task Force (OCDETF) as part of ongoing discussions to provide analytical resources for OCDETF investigations of Consolidated Priority Organization Targets;
- FinCEN has ongoing collaborative projects with the FBI, ICE, DEA and CBP. FinCEN conducts outreach with these and other agencies to identify and study topics and issues of strategic importance to law enforcement; and
- FinCEN continually produces reference manuals that provide insights to, and solicit input from, law enforcement. FinCEN also provides extensive training and technical assistance to law enforcement, and participates in outreach events, which allow ongoing communication on law enforcement needs.

In December 2008, FinCEN will administer a survey instrument to solicit input from law enforcement customers on potential strategic initiatives and methods to ensure FinCEN analytical products and services meet their investigative needs. Although communication with law enforcement will be ongoing, FinCEN will use the feedback from this survey to close out the recommendation.

Status: Estimated completion December 2008.

**3. Work with Treasury and non-Treasury regulatory organizations to develop BSA-related performance measures or indicators to track results achieved.**

Response: Concur. Subsequent to completion of the audit field work, FinCEN developed a BSA-related performance measure to track results achieved from Treasury and non-Treasury regulatory organizations. The measure reflects the percentage of bank examinations conducted by the Federal Banking Agencies (Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, and Office of Thrift Supervision) indicating a systemic failure of the anti-money laundering program rule.

In addition, as noted above, in February 2008 FinCEN commissioned a customer satisfaction survey of partner regulators with which it has concluded MOUs. The survey will measure how partner regulators rate the value of information exchange under the MOUs and identify ways to enhance BSA examination and compliance cooperation. FinCEN will evaluate the survey results and set future targets.

Status: Estimated completion September 2008.

Appendix 5  
Major Contributors to This Report

---

Eastern Field Audit Office (Boston)

Stephen Syriala, Audit Manager (Retired)  
Alex Taubinger, Auditor

Western Field Audit Office (San Francisco)

Benny Lee, Director (Retired)  
David Bach-y-Rita, Auditor  
Jack Gilley, Auditor (Retired)  
Ernest Lui, Auditor  
John Mansfield, Auditor

Washington, D.C.

Myung Han, Referencer

**The Department of the Treasury**

Under Secretary for Terrorism and Financial Intelligence  
Office of Strategic Planning and Performance Management  
Office of Accounting and Internal Control

**Financial Crimes Enforcement Network**

Director

**Office of Management and Budget**

OIG Budget Examiner