
August 30, 2019

FinCEN Announces Launch of New Global Investigations Division Focused on Exercising Section 311 and Geographic Targeting Order Authorities

On August 28, the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") announced the launch of a new Global Investigations Division ("GID"), which will be responsible for implementing "targeted investigation strategies" to combat illicit finance threats and related crimes, both domestically and internationally.¹ Matthew Stiglitz, a former Principal Deputy Chief in the Department of Justice's Criminal Division, will lead the GID.

FinCEN's GID expects to make particular use of two authorities:

- **Section 311 of the USA PATRIOT Act:** Under Section 311, if FinCEN finds that a foreign jurisdiction, financial institution, or class of transactions qualifies as a "primary money laundering concern," it may initiate rulemaking that would impose one or more of five different "special measures."² FinCEN has used this authority to designate foreign banks in Europe, the Middle East and Asia that are found to have deficient anti-money laundering ("AML") controls and to prohibit those banks from opening or maintaining U.S. correspondent bank accounts used for clearing U.S. dollar payments. For example, in 2017, FinCEN invoked Section 311 to designate China-based Bank of Dandong as an institution of primary money laundering concern based on its alleged processing of North Korean transactions, effectively cutting the institution off from the U.S. financial system.³ In 2016, FinCEN similarly designated FBME, a Tanzania-based bank that largely operates in Cyprus, due to FBME's alleged AML and sanctions control deficiencies, its extensive customer base of shell companies, and its provision of financial services to transnational organized crime groups and Hezbollah, among others.⁴
- **Geographic Targeting Orders ("GTOs"):** FinCEN has the authority to issue GTOs that require all identified businesses within a geographic area to report on specified transactions.⁵ There are civil and criminal penalties for failing to comply with a GTO's requirements. In recent years, specific money laundering concerns have motivated FinCEN to issue GTOs in several areas, including armored cars crossing the U.S./Mexico border, transactions with garment and textile businesses in Los Angeles' fashion district, and luxury real estate purchases in major metropolitan areas.⁶

With the establishment of the GID, FinCEN will now have one dedicated division focused on exercising its Section 311 and GTO authorities to "maximum effect" to detect and deter potential threats, "including those that have a nexus to the proliferation of weapons of mass destruction, rogue state actors, transnational

organized crime, international narcotics trafficking, and terrorism.”⁷ Financial institutions can expect FinCEN to make greater use of these special authorities going forward.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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- ¹ FinCEN, *New FinCEN Division Focuses on Identifying Primary Foreign Money Laundering Threats* (August 28, 2019), available [here](#).
- ² 31 U.S.C. §5318A.
- ³ See Paul, Weiss, *Economic Sanctions and Anti-Money Laundering Developments: 2017 Year in Review* (January 23, 2018), available [here](#).
- ⁴ Supplemental Information Regarding the Final Rule Imposing the Fifth Special Measure Against FBME Bank, Ltd., 81 Fed. Reg. 86577-86579 (December 1, 2016)(to be codified at 31 C.F.R. pt. 1010), available [here](#).
- ⁵ 31 U.S.C. §5326(a).
- ⁶ See Paul, Weiss, *FinCEN Imposes Anti-Money Laundering Reporting Requirements On “All Cash” Luxury Real Estate Purchases in Manhattan and Miami* (February 2, 2016), available [here](#).
- ⁷ FinCEN, *New FinCEN Division Focuses on Identifying Primary Foreign Money Laundering Threats* (August 28, 2019), available [here](#).