

FinCEN Statement Noting the Release of the Egmont Group's White Paper: *Enterprise-wide STR Sharing: Issues and Approaches*

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[The Egmont Group](#), the global association of Financial Intelligence Units (FIUs), has released a White Paper entitled, [Enterprise-wide STR Sharing: Issues and Approaches](#), designed to elicit further multilateral discussion of the issues surrounding the international sharing and protection of Suspicious Transaction Reports (STRs), known in the United States as Suspicious Activity Reports (SARs). Each FIU — the central, national agency responsible for receiving, analyzing, and disseminating SARs and other information for anti-money laundering/combating the financing of terrorism (AML/CFT) purposes — has a clear stake in the issue of SAR sharing as it relates to a properly functioning suspicious transaction reporting system. The Financial Crimes Enforcement Network (FinCEN) was one of several FIUs that played an active role in the Egmont Group's study of this issue over the past three years. FinCEN initiated a survey of practices in Egmont member jurisdictions and later led a subgroup of FIUs that drafted the White Paper. In addition to its responsibilities as the FIU for the United States, as the regulatory authority for the Bank Secrecy Act (BSA), FinCEN is charged with writing regulations and guidance for U.S. financial institutions concerning their responsibilities to file SARs and to protect the confidentiality of that information.

The White Paper explains that a critical aspect of the suspicious transaction reporting system in any jurisdiction is the confidentiality afforded to SARs. Many global financial institutions operating in multiple jurisdictions seek to implement a risk-based, enterprise-wide approach to AML/CFT compliance. In some cases, a jurisdiction's framework designed to protect the confidentiality of SARs may serve to restrict the sharing of SARs or related information across borders, limiting the ability of a financial group to fully implement enterprise-wide compliance policies. International differences in policy and law also create obstacles that make international SAR sharing difficult and often impossible.

As the White Paper illustrates, however, enterprise-wide SAR sharing may not only be efficient for global financial institutions, but also could promote more effective AML/CFT compliance and more valuable information reporting to FIUs. In a global economy, illicit activity may rarely impact only a single institution, or even a single country. In order to open the door to SAR sharing in ways that would not ultimately compromise the confidentiality afforded SARs, FinCEN supports the multilateral pursuit and discussion of the various options presented by the White Paper.

In addition to its work on this issue in the Egmont Group, FinCEN in recent years has taken action in support of similar principles and premises to promote SAR sharing. FinCEN and its U.S. regulatory colleagues have long recognized that to discharge their oversight responsibilities for enterprise-wide risk management, certain global financial institutions may ideally wish to share SARs, or information about SARs, within their international corporate structure. For example, head offices, controlling entities or parties, or parent entities, may have a valid need to review an internal unit's compliance with legal requirements to identify and report suspicious activity. Although the internal sharing of information underlying the filing of a SAR generally has never been prohibited under the BSA, it is understood that the sharing of a SAR itself may provide greater efficiency.

- FinCEN and the U.S. Federal Banking Agencies in January 2006 issued joint [guidance](#) specifying that, subject to certain exceptions or qualifications related to ensuring confidentiality, a U.S. branch or agency of a foreign bank may share a SAR with its head office outside the

United States, and a U.S. bank may disclose a SAR to its controlling company, no matter where the entity or party is located.

- In January 2006, FinCEN also issued [guidance](#) in consultation with the staffs of the Securities and Exchange Commission and the Commodity Futures Trading Commission determining that, subject to certain exceptions or qualifications related to ensuring confidentiality, a securities broker-dealer, futures commission merchant, or introducing broker in commodities may share a SAR with parent entities, both domestic and foreign.
- In October 2008, in a [speech](#) at the Association of Mexican Banks AML/CFT International Seminar, FinCEN Director James H. Freis, Jr. discussed some of the steps FinCEN was considering both domestically and internationally to promote greater SAR sharing.
- FinCEN proposed [amendments](#) to the SAR regulations in March 2009 to expand the confidentiality of SAR information, along with parallel proposed guidance [for depository institutions](#) and [the securities and futures industry](#) on SAR sharing to ensure that appropriate parties, but only those parties, have access to SARs.
- In June 2009, FinCEN issued a [statement](#) following the annual plenary meeting of the Egmont Group, held in Doha, Qatar. The statement noted that together with the Egmont Group's discussion of SAR sharing, FinCEN's proposed guidance to facilitate SAR sharing among domestic affiliates was a step toward raising awareness and removing some of the impediments to fulfilling the purposes of internationally recognized AML/CFT principles.
- In an October 2009 [speech](#) before the Association of Mexican Banks, FinCEN Director Freis noted that "unilateral acts allowing banking operations in the United States to share with foreign headquarters have limited effect so long as there is a lack of reciprocity from other countries."
- After receiving comments from the financial industry, in November 2010 FinCEN finalized its [rules](#) to promote SAR confidentiality and provided [guidance](#) to permit SAR sharing among domestic affiliates, effective as from January 3, 2011. Through their comments, some industry representatives expressed the desire that the rules go further and allow international SAR sharing among affiliates.

In addition to the efforts of FinCEN and the Egmont Group, the G-20, in its [Declaration](#) from November 15, 2008, on the occasion of the Summit on Financial Markets and the World Economy, issued its Action Plan to Implement Principles for Reform, including a section specific to "Promoting the Integrity in Financial Markets." The action plan states, "National and regional authorities should work to promote information sharing about domestic and cross-border threats to market stability and ensure that national (or regional, where applicable) legal provisions are adequate to address these threats."

In ongoing dialogue with financial institutions both domestically and internationally, industry representatives have repeatedly told FinCEN that SAR sharing among international affiliates is a worthwhile goal and would result in greater efficiency. More timely and effective AML/CFT information reporting certainly also would benefit law enforcement in combating financial crime, provided sensitive financial information and investigations are not compromised. As international awareness is generated by the concepts presented by the White Paper, FinCEN believes that U.S. financial institutions and associations with international reach will want to carefully consider the issues and to vigorously participate in ensuing discussions.

FinCEN, in coordination with Egmont, our law enforcement and regulatory partners, and other components of Treasury, will continue to discuss SAR sharing issues with industry and international standard setting bodies, such as the Financial Action Task Force and the Basel Committee on Banking Supervision, to build upon the concepts developed in this paper.