

Agency : TREASURY DEPARTMENT

Title : Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations--Imposition of Special Measure Against VEF Banka

Subject Category : Currency and foreign transactions; financial reporting and recordkeeping requirements: Bank Secrecy Act; implementation-- VEF Banka; special measure imposition due to designation as institution of primary money laundering concern

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Comment : BancPartner Group provides OFAC and FinCEN 314\_a search software solutions for banks and other financial institutions.

Most U.S. financial institutions will not have any direct business relationship with the institutions which are being proposed as a financial institution of primary money laundering concern, however these designations appear to create a new list with which all U.S. banks will be required to maintain and check proposed account relationships against.

Although the regulations are only proposing to add two entities to this new list, as with any government regulation there is a high probability that the number of entities on this list will grow substantially over time.

To enhance the effectiveness of the agency's mission and reduce regulatory burden on U.S. financial institutions FinCEN should address the following issues:

1. The proposal states that banks are not allowed to open correspondent accounts for the proposed entities. Comment by FinCEN clarifying steps to prevent indirect use of correspondent services by VEF Banka through intermediary financial institutions in the proposed rule would allow U.S. financial institutions to determine if only a one time search of the list upon account opening is sufficient to determine if an entity is on the list or does this proposed rule also extend to wire transfer activity, payable through accounts, debit and credit card transactions, and any other financial activities with which a U.S. financial institution may eventually directly transact or act as an intermediary in with the proposed entities.
2. If the intent of the rule is to ban all transactions (direct, indirect, and intermediary) with

the proposed foreign entity, FinCEN should consider that OFAC may be a more appropriate agency to enforce the proposed intent of the regulation. Bank and other financial regulatory agencies are likely to require all 15,000 plus U.S. financial institutions to adopt policies, procedures, and audit methods to address the new list. State and Federal financial institution regulators and private audit firms would also have to be educated on the proposed list and what transactions it does and does not allow. The regulatory burden for both private and government entities seems to be in excess of the benefits that creating a new list with two entities would have when existing policies, procedures, and exam/audit practices are in place that would require a minimal increase in regulatory burden (see comment 3 below).

3. The FinCEN 314\_a, OFAC, and Section 326 (under development) are all lists for which U.S. financial institutions have policies and procedures in place to check their new and existing customers against. State and Federal financial institution regulators and private CPA audit firms have also developed procedures to audit financial institutions for their compliance with checking these existing lists. Additionally, numerous vendors provide automated search solutions to U.S. financial institutions to assist them in locating potential matches in these lists when compared to their customer databases. FinCEN should consider that it would reduce regulatory burden and enhance the effectiveness of the proposed rule's intent if the new list could be included in or as a subset to the OFAC list. Although regulatory burden would be substantially increased by not using the existing OFAC list, FinCEN should at a minimum provide any new list in an electronic format available for download on its website in the same formats as the FinCEN 314\_a and OFAC lists are available in.

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