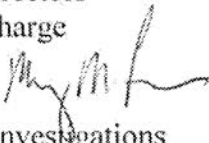




U.S. Immigration
and Customs
Enforcement

MAR 03 2009

MEMORANDUM FOR: Assistant Director
Deputy Assistant Directors
Special Agents in Charge

FROM: Marcy M. Forman 
Director, Office of Investigations

SUBJECT: 314(a) Requests in Support of Financial Investigations

Section 314(a) of the USA PATRIOT Act of 2001 enables federal law enforcement agencies, through the Financial Crimes Enforcement Network (FinCEN), to reach out to more than 45,000 points of contact at more than 25,000 financial institutions to locate accounts and transactions of persons that may be involved in terrorism or money laundering. Due to the increase in applications by ICE for 314(a) requests, this memorandum serves as a reminder to the field regarding its purpose, the application procedure, and process.

Through a coordinated process established by FinCEN, ICE agents can request a search of financial institutions to ascertain if an individual, entity, or organization under investigation for terrorism or money laundering has an account or has conducted transactions. It is important to note, however, that Section 314(a) provides lead information only and is **not** a substitute for a subpoena or other legal process. The information requested under the 314(a) provision must be essential for the further development of a significant investigation and cannot be utilized as a routine investigative step.

Responding to 314(a) requests is extremely time intensive for the financial institutions. Additionally, the amount of requests and follow-up subpoenas are closely monitored and are reviewed biannually at joint law enforcement and bank authorities meetings. It must be stressed that 314(a) requests should not be sent routinely. All other traditional investigative methods must have been exhausted prior to submitting a 314(a) request, including, but not limited to: mail covers, trash runs, Grand Jury subpoenas, WebCBRS research, commercial database research, and the use of confidential informants. Furthermore, these investigative efforts must be documented in Reports of Investigation (ROIs). 314(a) requests are not to be submitted for the sole purpose of asset identification in support of asset forfeiture investigations or submitted on behalf of a foreign government.

Protocol for Submission

The protocol for 314(a) submission is as follows:

1. The requestor must complete the **Subject Information Form**. This form will be typed and completed by the requesting investigative office. To ensure accurate results, please include all known identifiers in the format identified.
2. The requestor must complete the **Certification Form** in its entirety and have their Special Agent in Charge certify that the subjects being submitted under Section 314(a) are under investigation for terrorism or money laundering. In the event that financial institutions have questions regarding the individual(s) on whom the data is being requested, they have been instructed to directly contact the requestor. Therefore, it is essential that the contact information listed on the 314(a) certification form be someone that has a thorough knowledge of the investigation.
3. The 314(a) request must be routed to the appropriate Operations Manager at ICE Headquarters. The Operations Manager will ensure that all the appropriate forms have been completed and forward the package to the Financial Programs/Cornerstone Unit (FPCU) Liaison to FinCEN (the ICE Liaison to FinCEN) for initial review.
4. The ICE Liaison to FinCEN will determine if the 314(a) request warrants formal submission to FinCEN. The ICE Liaison to FinCEN will notify the appropriate Headquarters Operations Manager of the approval or denial of the request.

As soon as FinCEN receives a 314(a) request from ICE, a computerized letter of receipt will be generated. The letter will provide a confirmation of the request and a FinCEN tracking number. Please use this tracking number for all correspondence relating to your request. The 314(a) request will then be sent to the financial institutions and after 14 calendar days, the requestor will be advised of all positive results that were obtained.

Deconfliction

FinCEN will query its internal indices to determine if another agency has made a request on the same subject. If positive, appropriate networking will take place.

Feedback

The long-term viability of the 314(a) system is dependent on law enforcement providing feedback on the utility of the information obtained as a result of a 314(a) request. Therefore, FinCEN will provide the requestor with a **FinCEN 314(a) Feedback Form**. This form must be completed by the requestor within 90 days of receipt of 314(a) information or the requesting law enforcement agency will not be permitted to make further use of the 314(a) system.

Attached to this memorandum is a copy of the Subject Information Form, the Certification Form, and the Feedback Form. FinCEN is attempting to maintain all incoming requests and outgoing responses under Section 314(a) in an electronic media format and, therefore, these forms should only be transmitted electronically to the appropriate Operations Manager.

If you have any questions regarding this program, please contact FPCU Program Manager Cher Iannaccone (ICE Liaison to FinCEN) at (703) 905-3656 or ICE-FinCEN@dhs.gov.

SUBJECT INFORMATION FORM

314(a) Request
Date: _____

Request submitted on behalf of: Title, Requester Name, Agency, Phone Number

Alternate Point of Contact: Title, Alternate Point of Contact, Agency, Phone Number

Law Enforcement Requester: Please note that all of the financial institutions that have questions regarding possible matches will be directed to your contact phone number listed above. The FinCEN 314 Program Office will field all other questions concerning a 314(a) request. If you have any questions regarding the 314(a) process, please call the 314 Program Office at 703-905-**(b) (7)(E)** or email us at **[REDACTED]**@fincen.gov.

All of the information that you provide below will be sent to financial institutions. Including as much identification information as possible will help increase the probability that a financial institution can distinguish if a subject is a positive match. You will be notified when FinCEN has submitted the subject information to financial institutions.

Law Enforcement Agency – Please provide the following information in this column: Subject Name and other pertinent identifying information [Alias(es); Date(s) of Birth; Identification Number(s); Address(es)] EXAMPLE(Smith, John J.; aka Smyth, Jonathan; 01/01/1950; 000-00-0000; 123 Main St. City, State)

NOTE: A financial institution generally may not disclose to any other person the fact that FinCEN has requested or obtained information on a particular 314(a) subject, except to the extent necessary to comply with FinCEN's request. Any unauthorized disclosure of such information may result in criminal and civil penalties.

Certification for Purposes of Federal Law Enforcement Agencies Requesting Information Under Section 314(a) of the USA PATRIOT Act and 31 CFR 103.100

I hereby certify, on behalf of (*Agency Name*) that:

(1) In accordance with Section 314(a) of the USA PATRIOT Act (Pub. L. 107-56) and 31 CFR 103.100, each individual, entity, or organization about which information is requested is engaged in, or reasonably suspected based on credible evidence of engaging in: terrorist activity; or money laundering.

(2) The individuals, entities, and organizations about which information is requested are suspected of (describe suspected criminal conduct here)

in violation of (cite relevant statutory provision(s) here)

(3) This investigation is significant because (e.g., describe here seriousness and magnitude of suspected criminal conduct, dollar amount involved, whether conduct involves different geographic regions, importance of investigation to agency program goals, whether investigation is being conducted as part of multi-agency task force, whether the investigation is time sensitive, and any other relevant factor)

(4) This investigation does does not involve a public or political official. (Please indicate subjects and allegations in this section.)

(5) I understand that the Section 314(a) System is an extraordinary law enforcement tool that, in the case of a money laundering investigation, should not be used if there are adequate traditional investigative tools available (e.g., a targeted subpoena). I am submitting this 314(a) request because all other financial leads have been exhausted. (e.g., BSA financial database)

(6) The names of the individuals, entities, and organizations about which information is requested is included on the attached **Subject Information Form** along with enough specific identifiers, such as date of birth, address and social security number, that would permit a financial institution to differentiate between common or similar names.

(7) Unless otherwise noted, information will be collected from the following types of financial institutions: depository institutions, brokers or dealers in securities, future commissions merchants, some insurance companies, and some trust companies.

(8) Unless otherwise specified, the search criteria will include: 12 months for account activity and 6 months for financial transactions conducted by, or on behalf of, the subject(s) of the request; and all 50 states, Guam, U.S. Virgin Islands and Puerto Rico will be searched.

CERTIFICATION FORM

314(a)-_____/_____
FinCEN Tracking Number

(9) I understand that FinCEN will forward any response to the request to the federal law enforcement agency specified above within 14 calendar days of the date the request has been forwarded to the financial institution. If there are extenuating circumstances that necessitate a shorter period, please so indicate in this section.

(10) The requester or his designee shall be readily available to address any questions concerning the names of individuals, entities, or organizations attached to this certification. These questions could be posed either by FinCEN or the financial institutions who are being asked to search its records for relevant information. Therefore, the following person(s) at the federal law enforcement agency specified above may be contacted:

Requester Name:
Title:
Mailing Address:
E-Mail Address:
Telephone Number: Facsimile Number:
Agency Control Number:

Alternate Point of Contact:
Title:
Mailing Address:
E-Mail Address:
Telephone Number: Facsimile Number:

Authorized By:
Name
Special Agent in Charge (or Assistant SAIC) for
Executed on this day of , 200 .

FinCEN has provided the Certification Form and the Subject Information Form electronically. Please provide both forms (The Certification and Subject Information forms) together via e-mail, (b) (7)(E)@fincen.treas.gov or by fax at 703-905-(b) (7)(E) If you have any questions, please call: (703) 905-(b) (7)(E).

If applicable, please provide the following information to assist in follow-up tracking:

Name, Phone Number & District of AUSA:

FinCEN 314(a) Feedback Form

You recently used FinCEN as an information resource to support your investigation. The long-term viability of the 314(a) system is dependent on law enforcement providing feedback on the utility of the information obtained there from. You will not be permitted to make further use of the 314(a) system unless you complete and return this form, in the manner indicated below, within 90 days.

1. Did the positive response(s) reveal any account or transaction information previously unknown to you?

YES _____

NO _____

If yes, please indicate the number of newly discovered accounts and the number of newly discovered transactions.

New accounts _____

New transactions _____

2. Did you follow up any newly discovered account or transaction information with a request to the reporting financial institution for further information?

If no, please explain.

If yes, please indicate the means of requesting additional information by checking one or more of the following boxes:

Grand Jury subpoena / How many? _____

Search Warrant / How many? _____

Arrest Warrant / How many? _____

Administrative Subpoena or summons / How many? _____

National Security Letter / How many? _____

Other (please explain) _____

3. Did any newly-discovered account or transaction information result in any of the following (please check all that apply):

Arrest / How many? _____

Indictment / How many? _____

Conviction / How many? _____

4. Would you use this process again?

YES _____

NO _____

If no, please explain.

Additional comments:

Please e-mail the Feedback Form to [fincen.treas.gov](mailto:(b) (7)(E)@fincen.treas.gov) and place the word "Feedback" in the Subject Line.
Or, mail to:

Financial Crimes Enforcement Network
Patriot Act Section 314(a) Project
c/o Ralph Joseph
Post Office Box 39
Vienna, VA 22183