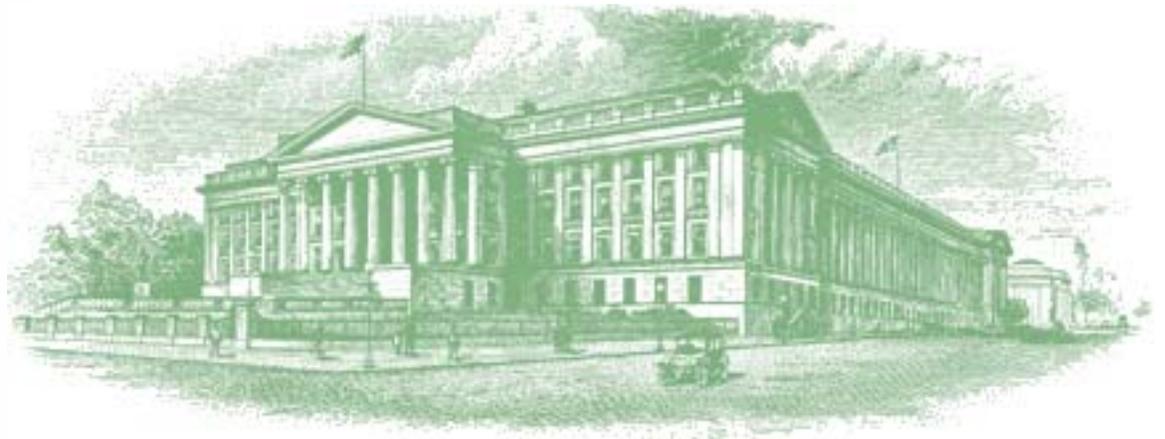




# Audit Report



OIG-05-030

**TERRORIST FINANCING/MONEY LAUNDERING:  
Status Report on the Establishment of the Financial Crimes  
Enforcement Network (FinCEN) Office of Compliance**

March 10, 2005

Office of  
Inspector General

Department of the Treasury



# Contents

---

## Audit Report

Background .....	4
Office of Compliance Staffing .....	6
FinCEN - Federal Regulatory Agency Cooperation .....	10

## Appendices

Appendix 1: Objective, Scope, and Methodology .....	18
Appendix 2: Organizational Chart for FinCEN .....	20
Appendix 3: Additional Information on the Regulatory Policy & Programs Division and the Office of Compliance .....	21
Appendix 4: Status of the Staffing Plan for the Office of Compliance.....	25
Appendix 5: Management Response .....	26
Appendix 6: Report Distribution.....	27

## Abbreviations

BSA	Bank Secrecy Act
CFTC	Commodities Futures Trading Commission
CTR	Currency Transaction Report
ERC	Enforcement Review Committee
FBA	Federal Banking Agencies
FFIEC	Federal Financial Institutions Examination Council
FDIC	Federal Deposit Insurance Corporation
FinCEN	Financial Crimes Enforcement Network
FRB	Board of Governors of the Federal Reserve System
FTE	Full-Time Equivalent
FY	Fiscal Year
GS	General Schedule
H.R.	House Report
IRS	Internal Revenue Service
MOU	Memorandum of Understanding or of Agreement
NCUA	National Credit Union Administration
OIG	Office of Inspector General
OCC	Office of the Comptroller of the Currency
OTS	Office of Thrift Supervision

# Contents

---

RPPD	Regulatory Policy & Programs Division (FinCEN)
SAR	Suspicious Activity Report
SEC	Securities and Exchange Commission
TFI	Office of Terrorism and Financial Intelligence (Treasury)
Treasury	U.S. Department of the Treasury
USA PATRIOT Act	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act

---

*The Department of the Treasury  
Office of Inspector General*

March 10, 2005

William J. Fox  
Director  
Financial Crimes Enforcement Network

This report provides the results of our audit to determine the status of the Financial Crimes Enforcement Network's (FinCEN) progress in establishing the Office of Compliance. We initiated this audit in response to Conference Report (H.R. 108-792) to the Consolidated Appropriations Act, 2005, and the related House Report (H.R. 108-671). We were specifically directed by the Conference Report to assess and provide a report by March 11, 2005, on: (1) FinCEN's full-time equivalent (FTE) sufficiency to conduct an effective Bank Secrecy Act (BSA) compliance program and (2) the level of cooperation being achieved in implementing FinCEN's planned memoranda of agreements with the Federal regulatory agencies charged with examination and enforcement responsibilities for BSA compliance.

In brief, we found that FinCEN established the Office of Compliance in August 2004. Currently the Office is staffed with 5 employees. FinCEN expects to increase this staff to 22 employees by August 2005, and it is actively recruiting for these positions. At this time, however, we are unable to make a fully informed assessment of FTE sufficiency, because FinCEN management needs to determine the nature and extent of the Office of Compliance work load. For example, the number, type, and complexity of cases likely to be referred to FinCEN on an ongoing basis are not yet known. We also found that FinCEN executed a memorandum of understanding (MOU) with

---

the 5 Federal banking agencies (FBA)<sup>1</sup> in September 2004 and has achieved a satisfactory level of cooperation so far under the MOU. However, it is still very early in the life of this MOU, and separate MOUs are just being developed with other regulatory agencies. For this reason, we plan to revisit this issue at a later date.

We performed our field work during January and February 2005, primarily at FinCEN's offices in the Washington, D.C., area. A more detailed description of our objective, scope, and methodology is included in Appendix 1.

In a memorandum dated March 9, 2005 (Appendix 5), FinCEN agreed with our assessment of its progress in establishing the Office of Compliance and expressed its commitment to the effective implementation of the BSA.

In accordance with the Conference Report, we are providing copies of this report to the Senate and House Committees on Appropriations.

## Background

FinCEN, a bureau of the Department of the Treasury, has as its mission to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity. FinCEN, which reports to the Under Secretary, Office of Terrorism and Financial Intelligence (TFI), achieves this mission, in part, through the administration of the BSA.

The BSA, enacted in 1970, authorizes the Secretary of the Treasury to issue regulations requiring financial institutions to keep

---

<sup>1</sup> The 5 FBAs are the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (FRB), and the National Credit Union Administration (NCUA). OCC and OTS are bureaus within the Department of the Treasury (Treasury). The other FBAs are independent of Treasury.

---

records and file reports on certain financial transactions.<sup>2</sup> Two of the more widely used BSA reports include the Currency Transaction Report (CTR) and the Suspicious Activity Report (SAR). CTRs are used to report transactions exceeding \$10,000, while SARs are used to report suspicious financial transactions.

Under delegated authority of the Secretary of the Treasury, FinCEN is the administrator of the BSA. FinCEN has the authority under 31 U.S.C. to examine financial institutions for compliance with the BSA and regulations promulgated under the BSA, as well as to take enforcement actions for violations of the BSA and the implementing regulations. The Secretary has delegated BSA examination authority, but not enforcement authority, to each FBA with respect to banking organizations supervised by that FBA. The FBAs have separate authority pursuant to 12 U.S.C. to ensure that banking organizations comply with all laws and regulations, including the BSA. FinCEN's regulations specify that each agency that performs FinCEN's delegated examination authority shall make periodic reports to FinCEN.

The BSA was amended by Title III of the USA PATRIOT Act,<sup>3</sup> which recognized FinCEN's position as the focal point for information relating to money laundering, the financing of terrorism, and other financial crimes.

The terrorist attacks of September 11, 2001, led to increased focus on compliance with the BSA. More recently, deficient anti-money-laundering systems in the case of Riggs Bank, N.A., led to a record civil money penalty of \$25 million. In response to issues raised during the Riggs case, FinCEN created a new Office of Compliance to more aggressively administer and implement the BSA and to oversee the examination activities of the agencies examining for BSA compliance.

---

<sup>2</sup> Codified at 31 U.S.C. 5311-5330 with implementing regulations at 31 C.F.R. Part 103.

<sup>3</sup> Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act, Public Law No: 107-56) is called the International Money Laundering Abatement and Anti-Terrorism Financing Act of 2001.

---

To establish a framework for the Office of Compliance to achieve its mission, FinCEN entered into an MOU with the 5 FBAs, effective September 30, 2004, setting forth procedures for the exchange of certain BSA information.<sup>4</sup> The ultimate goal of the MOU is to enhance communication and cooperation to help financial institutions identify, deter, and interdict terrorist financing and money laundering. It should be noted that there is no provision or consideration in the MOU for noncompliance by the parties to the agreement (i.e., no penalty). FinCEN anticipates entering into similar MOUs with other Federal regulatory agencies as well as State entities.

## Office of Compliance Staffing

FinCEN established the Office of Compliance within its Regulatory Policy & Programs Division (RPPD) as part of a reorganization during August 2004, as reflected in the FinCEN organizational chart in Appendix 2. The Office of Compliance's mission is stated as follows:

*The Office of Compliance will work to better ensure industry compliance with the Bank Secrecy Act through supporting and, as appropriate, overseeing the agencies and organizations examining financial institutions for compliance.*

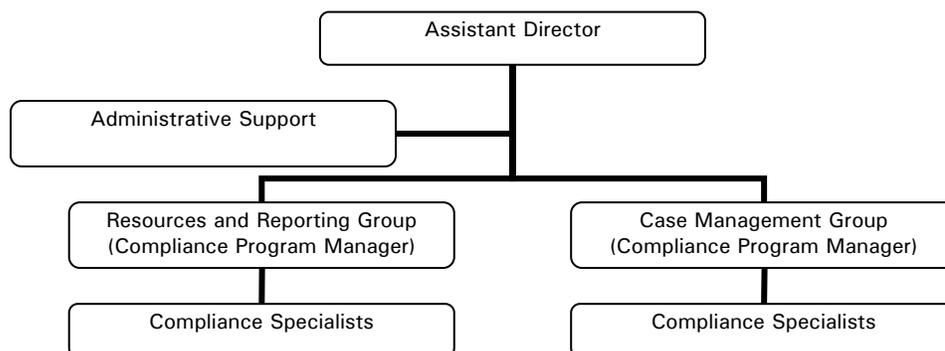
FinCEN has organized the Office of Compliance staff into two groups, each headed by a Compliance Program Manager, as shown on the next page. The Resources and Reporting Group will have responsibility for examination procedures, training (working with the FinCEN Training Office), analytical research for all agencies, and identification of trends and patterns. The Case Management Group will focus on case management, including the handling of information received from the FBAs regarding specific banks.

---

<sup>4</sup> The complete requirements of the MOU, which are summarized here, may be found on the Treasury web site, under a press release titled *Treasury Announces MOU to Strengthen BSA Compliance*, dated October 1, 2004 (JS-1973) (<http://www.ustreas.gov/press/releases/reports/fincenbankingregulatorsmou.pdf>).

---

## Office of Compliance Structure



Appendix 3 provides additional information on the structure of the RPPD and the Office of Compliance’s strategic plan and operational goals.

The Conference Report directed that we assess the FTE sufficiency to conduct an effective BSA compliance program. At this point, we are unable to make a fully informed assessment, because FinCEN management needs to determine the nature and extent of the Office of Compliance work load. When it established the Office of Compliance during August 2004, FinCEN reassigned 4 staff members to it from other RPPD offices. The Consolidated Appropriations Act, 2005, provided an additional \$3 million to hire no less than 18 FTEs to assist FinCEN in ensuring compliance by all financial industries subject to the BSA. In this regard, some of the functions planned for the Office of Compliance are new activities not previously undertaken by FinCEN. Considering this, coupled with FinCEN’s increased emphasis on BSA generally, there are no known benchmarks to gauge the resources necessary to carry out all these functions efficiently and effectively. At this point, the budget seems to be the most significant driving force behind the size of the office.

FinCEN officials expect that there will be an initial peak in activity as the 5 FBAs start reporting under the MOU and then again as

---

FinCEN signs MOUs with other regulatory agencies. Therefore, they believe it will take some time to get a true picture of the volume and type of work that the Office of Compliance will have on an ongoing basis.

As of February 28, 2005, the Office of Compliance was staffed with 5 employees - - 1 Assistant Director and 4 Compliance Specialists. FinCEN's goal is to bring the total staff to 22 as quickly as possible during FY 2005. While it is still early in the process, we believe that FinCEN is taking a reasonable approach to staffing the Office of Compliance, using various means to meet this goal.

FinCEN officials pointed out that they face a number of challenges in recruiting for the Office of Compliance, including the fact that other entities are able to offer salaries and benefits that are more competitive. In addition, the Federal hiring process, including the required security clearance, takes significant time, particularly for non-Federal applicants.

FinCEN positions are designated as critical-sensitive and require an extensive background investigation of new employees prior to starting work. In this regard, the FinCEN Office of Security estimated that it takes a minimum of 185 days from receipt of the complete investigative package from a new-hire to bring that employee on board. To accelerate the lead time to hire employees, the Office of Security may grant an interim clearance in certain circumstances. The interim clearance will take a minimum of 45 days, which can be accelerated if an employee has a clearance or a recent background investigation. Continued employment is conditional on the favorable adjudication of the background investigation.

To address these recruitment challenges and staff up as soon as possible, FinCEN has taken or plans to take the following actions:

- Expedited Classification and Posting The FinCEN Office of Human Resources has given top priority to recruitment for the Office of Compliance. It classified and posted all

---

remaining Office of Compliance positions by February 14, 2005.

- Extended Vacancy Announcement Periods The vacancy announcements for all positions except the GS-7 Compliance Program Assistant will be open for 45 days, with an initial cut-off date 30 days after the posting date. FinCEN believes this extended announcement period may attract more applicants, while at the same time giving Human Resources the opportunity to measure the volume of responses and to expedite the process if possible. That is, if an appropriate number of applications from qualified individuals has been received by the initial cut-off date, the hiring process may proceed at that point, rather than waiting until the end of the 45-day period.

According to Human Resources, the typical hiring process takes at least 3 weeks, but may be longer because of such factors as qualifications analysis, assessment of applicants, and interviews by managers.

- Broad Targeted Advertising of Positions In addition to posting the vacancy announcements on FinCEN's web page and on the Federal government's official job site, USAJOBS, FinCEN is advertising in the *American Banker* and on web sites targeting those in the accounting, finance, and banking arenas. During February, RPPD representatives attended two job fairs hosted by the FDIC, which is currently undergoing a reduction-in-force. Informal means, such as personal contacts within the regulatory community, are also being used to recruit staff.
- Signing Bonus or Relocation Assistance In an attempt at parity with other Federal regulators, the Office of Compliance plans to offer incentives, as necessary, including a one-time signing bonus or relocation assistance.<sup>5</sup>

---

<sup>5</sup> The Office of Personnel Management has established limits on recruitment bonuses and relocation bonuses at 25 percent of the annual rate of basic pay.

---

Table 2 in Appendix 4 provides additional information about the status of positions within the Office of Compliance, including the estimated entry-on-duty date. Based on the number of applications received to date, FinCEN expects the Office of Compliance, under the best circumstances, to be fully staffed in August 2005.

RPPD managers have discussed other issues related to staffing, including the type of classroom and on-the-job training that may be necessary. Consideration is being given, for example, to hiring under the Outstanding Scholar program for the Office of Regulatory Policy Resource Center, with the understanding that as these individuals gain knowledge in BSA compliance matters, their careers may progress in the Office of Compliance, and perhaps later in the RPPD Office of Enforcement, for which the most extensive knowledge and experience is required. FinCEN officials believe that providing for career advancement may assist with retention of staff in a competitive environment.

## **FinCEN - Federal Regulatory Agency Cooperation**

The Conference Report also directed that we assess the level of cooperation being achieved in implementing the planned MOUs with the Federal regulatory agencies charged with examination and enforcement responsibilities for BSA compliance. We found that the 5 FBAs have provided information in a timely manner as prescribed by the September 2004 MOU. Officials of FinCEN and the FBAs told us that a cooperative environment has existed during the 5 months in which the MOU has been in effect. MOUs are at various stages of development with other Federal regulatory agencies; specifically, the Internal Revenue Service (IRS), the Securities and Exchange Commission (SEC), and the Commodities Futures Trading Commission (CFTC). In addition, FinCEN is working on establishing similar relationships with State regulatory entities.

---

## MOU with the FBAs

We found that there has been general compliance with the requirements of the September 2004 MOU for which due dates have passed. The MOU contains a joint requirement for an annual meeting, and separate sections requiring provision of information to FinCEN by the FBAs and provision of information to the FBAs by FinCEN. Below is an outline of the major requirements of the MOU, by section, with a brief summary of the actions that have occurred or are planned. As stated previously, it should be noted that there is no provision or consideration in the MOU for noncompliance by the parties to the agreement (i.e., no penalty).

- I. Assessment of MOU Operation The MOU requires that FinCEN and the FBAs meet, no less often than annually, to discuss the operation of the MOU, and to identify any issues or adjustments that may be required.

Status The first formal annual meeting between FinCEN and the FBAs to assess operation of the MOU is planned to be held before October 2005. Both FinCEN and the FBAs advised us that, in the meantime, there has been ongoing dialogue between FinCEN and the FBAs, sometimes on a daily basis, with periodic meetings as needed.

- II. Provision of Information to FinCEN by the FBAs

- A. Annual Report The MOU requires that each FBA provide a summary of its BSA examination program, including, in part, the number of financial institutions it examines for BSA compliance and a description of its BSA examination cycle(s), staffing, resources, and training programs. The first annual report was due November 15, 2004.

---

Status FinCEN considered all annual reports to be received in a timely manner; specifically, they were received on or about the scheduled deadline of November 15, 2004.<sup>6</sup>

- B. Program Documents To the extent FinCEN does not already have them, the MOU requires that each FBA provide copies of written program documents, including procedures and other guidance, pertaining to BSA examination.

Status Although the MOU did not specify a due date, FinCEN received the program documents with the first annual reports filed by the FBAs. Uniform examination core and expanded procedures are currently under joint development.

- C. Quarterly Reports The MOU requires that, within 45 days after the end of each calendar quarter, each FBA provide aggregate information including, in part, the number of BSA examinations conducted in various categories, the number of banking organizations cited for BSA violations, and data about enforcement actions. The first quarterly reports were due February 15, 2005.

Status The quarterly reports, due February 15, 2005, were received by FinCEN in a timely manner.<sup>7</sup>

- D. Special BSA Examination Project Information The MOU requires that an FBA notify FinCEN prior to conducting any special BSA examination initiative.

Status FinCEN officials advised us that no special BSA examination initiatives have been conducted to date.

---

<sup>6</sup> Some of the annual reports were received shortly after the due date. Given that these were the first annual filings and that each of the FBAs also included program documents with the annual report, FinCEN determined that there was substantial compliance by the FBAs with this MOU requirement.

<sup>7</sup> Some of the quarterly reports were received within a few days of the due date. Given that these were the first quarterly filings, FinCEN considered them to be filed in a timely manner.

---

E. Significant BSA Violations or Deficiencies The MOU requires that FBAs notify FinCEN of significant BSA violations or deficiencies. The FBAs are also to provide relevant portions of the report(s) of examination and other written materials, and notification of public enforcement actions and information on follow-up and resolution.

Status FinCEN has begun to receive information on what the individual FBAs consider to be significant BSA violations or deficiencies. Once it has the opportunity to analyze all of the referrals, the Office of Compliance plans to meet with the FBAs to refine the process, in part by identifying common elements that reach the level of a significant violation or deficiency reportable to FinCEN under the MOU.

### III. Provision of Information to the FBAs by FinCEN

A. Quarterly Reports The MOU requires that FinCEN provide a compilation that summarizes, by FBA, all the data provided in the FBA quarterly reports. The first quarterly report is due March 16, 2005.

Status According to FinCEN, the Office of Compliance is on target to issue the initial quarterly report by the due date.

Additionally, this section of the MOU requires FinCEN to provide each FBA with a report identifying those banking organizations subject to the FBA's supervision against which FinCEN is considering pursuing civil enforcement remedies under the BSA.

Status The status under III.B. also applies to this section, as there is some overlap in these two requirements.

B. FinCEN Enforcement Actions The MOU requires, in part, that FinCEN notify the FBA with supervisory authority over the banking organization whenever FinCEN determines that

---

the imposition of civil enforcement remedies under the BSA may be warranted, and also prior to taking an enforcement action against any banking organization.

Status FinCEN plans first to assess the current inventory in the RPPD Office of Enforcement and redistribute cases, as appropriate, between the RPPD Office of Enforcement and the Office of Compliance. Once that is accomplished, FinCEN will provide a separate report, containing institution specific information, to each FBA on a monthly basis. As of February 28, 2005, there have not been any cases where FinCEN was required to give an FBA advance notification under this section of the MOU.

- C. FinCEN Analytical Products Under the MOU, FinCEN is to provide analytical products that identify common BSA compliance deficiencies, patterns and trends in BSA compliance, developments in money laundering and terrorist financing, and trends and best practices in BSA examination to enhance the overall effectiveness of the FBAs' administration of the BSA.

Status Providing analytical products is a long-term goal for the Office of Compliance. According to FinCEN officials, this service will likely commence within a year of the Office being fully staffed.

- D. Assistance in Identifying BSA Compliance Deficiencies The MOU requires that, using information provided pursuant to this MOU, as well as BSA data and other information, FinCEN provide support to the FBAs in helping to identify banking organizations with possible BSA compliance deficiencies for the purpose of assisting the FBAs in utilizing their examination resources.

Status According to FinCEN officials, providing this assistance is a long-term goal for the Office of Compliance, dependent on having the proper resources/personnel, including a Case Management System. If an urgent matter

---

were to be brought to FinCEN's attention, we were told that it would be given priority and, if necessary, referrals would be made to the appropriate agency to assist with any identified BSA compliance deficiencies.

- E. Public Reports In the event that information provided by the FBAs is included in any documents that are made public or disclosed to any Congressional entity, the MOU requires that such documents be provided to the FBAs before they are released by FinCEN with as much notice as possible.

Status FinCEN officials told us that no instances have occurred as of February 28, 2005, requiring notification to the FBAs under this section of the MOU.

#### Relationship with FBAs

There appears to be a satisfactory level of cooperation in implementing the MOU with the FBAs. Specifically, FinCEN officials cited the open lines of communication and cooperation on such items as core and expanded examination procedures for BSA compliance. The FBAs submitted the initial annual reports and the quarterly reports to FinCEN in a timely manner, and also provided all program documents with the annual report, although not specifically required to do so.

Representatives of the 5 FBAs we interviewed in February 2005 were satisfied with FinCEN's level of cooperation, stating that there had been positive outreach on the part of RPPD staff. FBA representatives, however, stated that it may be too early to judge the overall relationship under the MOU, in part because the Office of Compliance has not yet had the opportunity to staff up and begin functioning as intended. The FBA representatives stated that they are looking forward to the time when the Office of Compliance is able to provide deliverables under the MOU, particularly the analytical products that are expected to help the FBAs refine their own approach to BSA compliance.

---

Planned MOUs with Other Regulatory Agencies

Planned MOUs with the other regulatory agencies were at various stages of development as of February 28, 2005, as reflected in Table 1 below. Office of Compliance officials stated that it is difficult to provide a projected effective date for these MOUs, considering how negotiations between FinCEN and the regulatory agencies have been progressing at this time.

**Table 1. Status of MOUs with Other Regulatory Agencies**

Entity	Status as of February 28, 2005
IRS	IRS staff level and Counsel review.
SEC	FinCEN has received comments from the SEC on the draft MOU. Fundamental differences remain to be addressed.
CFTC	Initial draft MOU sent to CFTC, but on hold by FinCEN, pending completion of the SEC MOU.
States - Banking Regulatory Agencies	FinCEN is finalizing a template MOU with the State Supervisory Agencies. This is being coordinated with the Conference of State Bank Supervisors. Individual State agreements will be negotiated based on the template.
States - Other Regulatory Agencies	Under consideration pending the implementation of regulations covering additional financial industry sectors regulated by other State agencies.

\* \* \* \* \*

We would like to express our appreciation for the cooperation and courtesies extended to our staff by FinCEN during the review, and to acknowledge the responsiveness of the FBAs to our inquiries.

---

If you have any questions, please contact me at (202) 927-6512. The major contributors to this report were Maria V. Carmona, Audit Manager, Horace A. Bryan, Auditor, and Susan R. Sebert, Program Analyst.

Donald R. Kassel  
Director, Banking and Fiscal Service Audits

The audit was conducted in response to a Congressional requirement. Specifically, House Report 108-671 for the Consolidated Appropriations Act, 2005, directed our office provide the Senate and House Committees on Appropriations with a status report detailing FinCEN's progress in establishing the Office of Compliance. Our report was to include an assessment of FTE sufficiency to conduct an effective BSA compliance program as well as the level of cooperation being achieved in implementing the planned memoranda of agreements with the Federal regulatory agencies charged with examination and enforcement responsibilities for BSA compliance. The related Conference Report (108-792) established a reporting date of March 11, 2005, for our assessment.

Accordingly, our audit objective was to determine the status of the creation of the FinCEN Office of Compliance and the level of cooperation being achieved between FinCEN and the Federal regulatory agencies. The scope of the audit included the actions taken by FinCEN to establish the Office of Compliance, and by FinCEN and the 5 FBAs to comply with the requirements of the MOU. We considered actions taken or planned from the MOU's effective date of September 30, 2004, through February 28, 2005.

We met with managers and staff from the FinCEN offices with primary responsibility for administration of the MOU and those that assist in this purpose. Our most detailed discussions were with FinCEN's Associate Director, Regulatory Policy & Programs Division, and the Assistant Director, Office of Compliance. We also met with, among others, the Associate Directors for the Administration & Communications Division, the Analytics Division, and the Client Liaison & Services Division; and with the Assistant Directors for the Regulatory Policy, Enforcement, Human Resources, Financial Management, Regulatory Support, and BSA Data Services Offices.

In addition, we met with representatives of OCC, OTS, FDIC, FRB, and NCUA to obtain their perspectives on the level of cooperation being achieved under the MOU. We obtained their general observations about cooperation, responsiveness, any future needs or expectations, and any potential issues. We also obtained a general understanding of the organizational structure that each

FBA has to deal with the MOU requirements and the level of effort that has been required.

We reviewed the initial annual reports that each of the FBAs submitted to FinCEN under the MOU, the program documents provided, and the first quarterly reports filed by the FBAs. The objectives of our audit did not include an assessment of the completeness and accuracy of these documents and reports, and we did not make such an assessment. We also obtained an understanding of the status of MOUs with other entities, and reviewed the draft language of these documents.

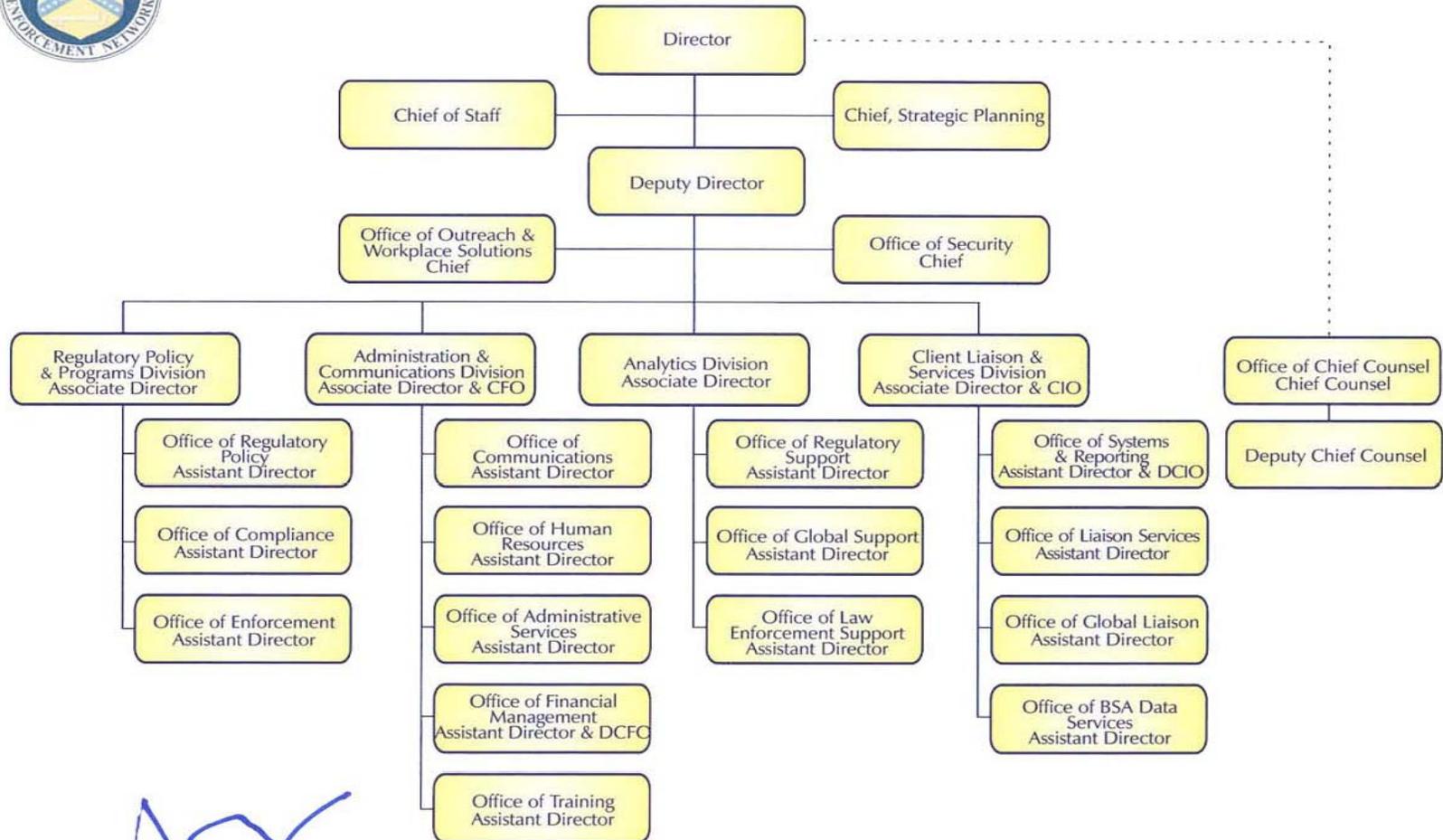
FinCEN officials walked us through the planned case processing flow, discussing the roles of the Office of Compliance, of the other two offices within RPPD, and of the Office of Regulatory Support within the Analytics Division. In addition, we observed the presentation of a training module that RPPD developed for the FFIEC Anti-Money-Laundering course for examiners.

We conducted our audit during January and February 2005, primarily at FinCEN's offices in the Washington, D.C., area, in accordance with generally accepted government auditing standards.

Appendix 2  
Organizational Chart for FinCEN



## Financial Crimes Enforcement Network



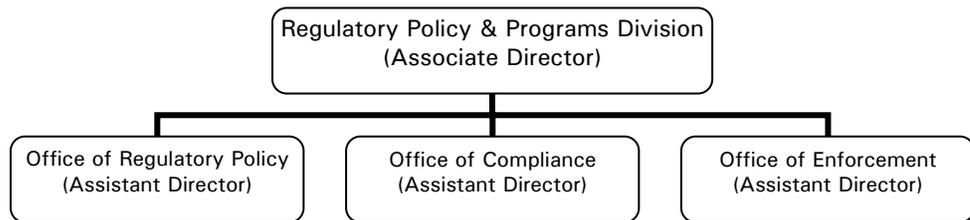
Approved: \_\_\_\_\_

Date: \_\_\_\_\_

27-AUG-2004

### **Regulatory Policy & Programs Division Structure**

As shown in the following organizational chart, RPPD has two other offices, each of which works closely with the Office of Compliance. The Office of Regulatory Policy develops and implements policy through outreach, training, and the issuance of regulations and guidance. The Office of Enforcement addresses identified instances of noncompliance with the BSA for the purpose of penalizing egregious or systemic offenses, compelling corrective action, deterring future noncompliance, and providing guidance to the industry.



In considering the establishment of the Office of Compliance, it is important to note that there are other initiatives within RPPD that complement its work. For example, the Office of Regulatory Policy is in the process of creating and staffing a BSA Resource Center that intends, in part, to respond to calls to the Financial Institutions Hotline and the Regulatory Helpline, and to answer online questions received through FinCEN's Webmaster. As it identifies industry needs, RPPD plans to develop and post regulatory and compliance frequently asked questions to facilitate its work. As another example, RPPD has established an Enforcement Review Committee (ERC) to review all proposed enforcement actions and formally document recommendations and decisions. The ERC members are the Associate Director, RPPD, and the Assistant Directors for the Office of Compliance and for the Office of Enforcement.

In addition to establishing the Office of Compliance, FinCEN is devoting significant analytical resources to its regulatory programs by creating the Office of Regulatory Support in its Analytics Division. According to FinCEN, the primary function of this new office is to provide analytical support to RPPD by performing

general research projects, such as studies of selected aspects of the banking industry; specific research projects, conducted at the request of authorized parties; and case-specific projects requested by the Office of Compliance as it accomplishes its MOU-related duties. Through this analysis, FinCEN expects to support the examination functions of the regulators by helping to identify both strategic and tactical examination targets, and emerging compliance deficiencies; and to identify and target problem financial institutions for examination. It is also expected that identification of deficiencies and compliance issues will also allow FinCEN to provide guidance to the industry on a more timely basis and aid the industry in focusing its compliance resources.

### **Office of Compliance Strategic Plan and Operational Goals**

The Office of Compliance's *Strategic Plan and Operational Goals, FY 2005*, identifies outcomes, strategic challenges, customers and stakeholders, and key risks and the tools to address them. Management and operational inputs and outputs are also identified, as are case processing plans. Some key factors in the establishment of the office are discussed below:

- Determination of Case Processing Flow The Office of Compliance has planned the major steps that will be taken to process a case, identifying key decision points and situations in which referrals will be made to other RPPD offices and to the Office of Regulatory Support. Plans are for cases to be processed in a uniform manner, with staff evaluating each case based on an analytical work-up.
- Creation of a Case Management System The Office of Compliance plans to create a case management system to store, track, analyze, and generate reports on cases. A project manager from the Office of BSA Data Services, within the Client Liaison & Services Division, has been assigned the lead role in assisting the Office of Compliance in acquiring off-the-shelf software that is compatible with other FinCEN systems and will require only limited modifications to address this need. A detailed project plan and software selection matrix have been developed, and

testing has begun. The goal is to implement the Case Management System by April 2005.

- Establishment of Secure Communications. FinCEN established, through the Secure Outreach System,<sup>8</sup> a secure e-mail capability that the Office of Compliance is using to send and receive documents from the regulators. One FBA has already used this system to file its quarterly report.
- Development of Examiner Training Materials As part of its outreach as administrator of the BSA, RPPD developed a training module that it is presenting at 10 Federal Financial Institutions Examination Council (FFIEC)<sup>9</sup> Anti-Money-Laundering training courses for examiners during Fiscal Year (FY) 2005.

The first of these presentations was made on February 3, 2005.<sup>10</sup> The Office of Compliance also plans to do a presentation at the three sessions of the FFIEC Financial Crimes Seminar this year.

- Development of Policies and Procedures The Office of Compliance has not established policies and procedures, but plans to do so within the next year or so.

---

<sup>8</sup> FinCEN's Secure Outreach System provides Gateway users (e.g., Federal, State, and local law enforcement agencies) with on-line access to records filed under the BSA. Although access to the BSA records is the primary use of the system today, the Secure Outreach System also includes secure e-mail capability between FinCEN and its customers.

<sup>9</sup> FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the examination of banks by Federal regulators (OCC, OTS, FDIC, FRB, and NCUA) established under Title X of the Financial Institutions Regulatory and Interest Rate Control Act of 1978.

<sup>10</sup> Approximately 30 bank examiners from the FBAs and the States, as well as observers from FinCEN and our audit team, attended the first presentation. The session provided a comprehensive overview of responsibilities under the BSA, the roles of the three offices within RPPD (including the Office of Compliance), the requirements of the MOU with the FBAs, and the regulatory relationship with other agencies. FinCEN's authority under the BSA and potential factors for referral were also discussed.

- Establishment of Performance Measures The Office of Compliance has yet to develop performance measures and the corresponding baselines. Measures being considered at this time include customer/stakeholder satisfaction and processing time.

**Table 2. Status of the Staffing Plan for the Office of Compliance (as of February 28, 2005)**

Position Title	Series/Grade	No. of Positions		No. <sup>1</sup>	Open	Close	Estimated Entry-on-Duty Date <sup>2</sup>
		Filled	Vacant				
Assistant Director	GS-301-15	1					
Compliance Program Manager	GS-301-14/15		2	20518 20519 20522 20525	Feb. 07	Mar. 24	August 2005
Compliance Project Officer	GS-301-13/14		6	20786 20787	Feb. 14	Mar. 31	August 2005
Compliance Specialist	GS-301- 9, 11, 12, 13	4	8	20159 20162	Feb. 07	Mar. 24	August 2005
Compliance Program Assistant	GS-303-07		1	20054 20077	Jan. 28	Feb. 10	June 2005
<b>Total</b>		<b>5</b>	<b>17</b>				<b>August 2005</b>

**Notes**

<sup>1</sup> The vacancy announcement numbers all have the format of FINCP/05-#####PPJ. The numbers shown in this column replace the ##### for each position.

<sup>2</sup> The Estimated Entry-on-Duty Date reflects the most favorable processing estimate in each case. Unexpected delays may occur at various points during the process.



DEPARTMENT OF THE TREASURY  
FINANCIAL CRIMES ENFORCEMENT NETWORK

March 9, 2005

**MEMORANDUM FOR DONALD R. KASSEL**  
**DIRECTOR**  
**BANKING AND FISCAL SERVICE AUDITS**  
**OFFICE OF THE INSPECTOR GENERAL**

**FROM:** William D. Langford, Jr.  
Associate Director  
Regulatory Policy and Programs Division

**SUBJECT:** *Management Response - Audit of the Office of Compliance*

The Financial Crimes Enforcement Network is committed to the effective implementation of the Bank Secrecy Act as it is critical to protecting our financial system and our national security. As part of that commitment, we are aggressively implementing our plan to staff the Office of Compliance and develop the necessary policies and procedures that will ensure the Office is an essential part of our regulatory programs. We agree with the Office of the Inspector General's assessment of our progress and would like to thank their staff for their effort to fairly present our progress and the challenges we face in establishing this Office.

**Department of the Treasury**

Under Secretary, Enforcement, and Office of Terrorism  
and Financial Intelligence (TFI)  
Assistant Secretary, Terrorist Financing & Financial Crimes  
Office of Strategic Planning and Performance Management  
Office of Accounting and Internal Control

**Financial Crimes Enforcement Network**

Associate Director, Regulatory Policy & Programs Division  
Assistant Director, Office of Compliance  
Assistant Director & Deputy Chief Financial Officer,  
Office of Financial Management

**Office of Management and Budget**

OIG Budget Examiner

**United States Congress**

Senate Committee on Appropriations  
Senate Committee on Appropriations, Subcommittee on  
Transportation, Treasury, the Judiciary, Housing and Urban  
Development, and Related Agencies  
House Committee on Appropriations  
House Committee on Appropriations, Subcommittee on  
Transportation, Treasury, and Housing and Urban Development,  
The Judiciary, District of Columbia