

(Added Pub. L. 101-73, title III, §307(a)(1), Aug. 9, 1989, 103 Stat. 352; amended Pub. L. 103-272, §4(f)(1)(A), July 5, 1994, 108 Stat. 1361.)

REFERENCES IN TEXT

Section 3(a) of the Home Owners' Loan Act, referred to in text, which established the Office of Thrift Supervision, was classified to section 1462a(a) of Title 12, Banks and Banking, and was struck out by Pub. L. 111-203, title III, §369(3)(B), July 21, 2010, 124 Stat. 1558.

PRIOR PROVISIONS

A prior section 309 was renumbered section 315 of this title.

AMENDMENTS

1994—Pub. L. 103-272 substituted “section 3(a)” for “section 2A(a)”.

TRANSFER OF FUNCTIONS

Office of Thrift Supervision abolished and functions transferred to the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Comptroller of the Currency, and the Federal Deposit Insurance Corporation by sections 5412 and 5413 of Title 12, Banks and Banking.

§ 310. Financial Crimes Enforcement Network

(a) IN GENERAL.—The Financial Crimes Enforcement Network established by order of the Secretary of the Treasury (Treasury Order Numbered 105-08, in this section referred to as “FinCEN”) on April 25, 1990, shall be a bureau in the Department of the Treasury.

(b) DIRECTOR.—

(1) APPOINTMENT.—The head of FinCEN shall be the Director, who shall be appointed by the Secretary of the Treasury.

(2) DUTIES AND POWERS.—The duties and powers of the Director are as follows:

(A) Advise and make recommendations on matters relating to financial intelligence, financial criminal activities, and other financial activities to the Under Secretary of the Treasury for Enforcement.

(B) Maintain a government-wide data access service, with access, in accordance with applicable legal requirements, to the following:

(i) Information collected by the Department of the Treasury, including report information filed under subchapter II of chapter 53 of this title (such as reports on cash transactions, foreign financial agency transactions and relationships, foreign currency transactions, exporting and importing monetary instruments, and suspicious activities), chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act.

(ii) Information regarding national and international currency flows.

(iii) Other records and data maintained by other Federal, State, local, and foreign agencies, including financial and other records developed in specific cases.

(iv) Other privately and publicly available information.

(C) Analyze and disseminate the available data in accordance with applicable legal requirements and policies and guidelines established by the Secretary of the Treasury

and the Under Secretary of the Treasury for Enforcement to—

(i) identify possible criminal activity to appropriate Federal, State, local, and foreign law enforcement agencies;

(ii) support ongoing criminal financial investigations and prosecutions and related proceedings, including civil and criminal tax and forfeiture proceedings;

(iii) identify possible instances of non-compliance with subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act to Federal agencies with statutory responsibility for enforcing compliance with such provisions and other appropriate Federal regulatory agencies;

(iv) evaluate and recommend possible uses of special currency reporting requirements under section 5326;

(v) determine emerging trends and methods in money laundering and other financial crimes;

(vi) support the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism; and

(vii) support government initiatives against money laundering.

(D) Establish and maintain a financial crimes communications center to furnish law enforcement authorities with intelligence information related to emerging or ongoing investigations and undercover operations.

(E) Furnish research, analytical, and informational services to financial institutions, appropriate Federal regulatory agencies with regard to financial institutions, and appropriate Federal, State, local, and foreign law enforcement authorities, in accordance with policies and guidelines established by the Secretary of the Treasury or the Under Secretary of the Treasury for Enforcement, in the interest of detection, prevention, and prosecution of terrorism, organized crime, money laundering, and other financial crimes.

(F) Assist Federal, State, local, and foreign law enforcement and regulatory authorities in combatting the use of informal, nonbank networks and payment and barter system mechanisms that permit the transfer of funds or the equivalent of funds without records and without compliance with criminal and tax laws.

(G) Provide computer and data support and data analysis to the Secretary of the Treasury for tracking and controlling foreign assets.

(H) Coordinate with financial intelligence units in other countries on anti-terrorism and anti-money laundering initiatives, and similar efforts.

(I) Administer the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary of the Treasury.

(J) Such other duties and powers as the Secretary of the Treasury may delegate or prescribe.

(c) REQUIREMENTS RELATING TO MAINTENANCE AND USE OF DATA BANKS.—The Secretary of the Treasury shall establish and maintain operating procedures with respect to the government-wide data access service and the financial crimes communications center maintained by FinCEN which provide—

(1) for the coordinated and efficient transmittal of information to, entry of information into, and withdrawal of information from, the data maintenance system maintained by FinCEN, including—

(A) the submission of reports through the Internet or other secure network, whenever possible;

(B) the cataloguing of information in a manner that facilitates rapid retrieval by law enforcement personnel of meaningful data; and

(C) a procedure that provides for a prompt initial review of suspicious activity reports and other reports, or such other means as the Secretary may provide, to identify information that warrants immediate action; and

(2) in accordance with section 552a of title 5 and the Right to Financial Privacy Act of 1978, appropriate standards and guidelines for determining—

(A) who is to be given access to the information maintained by FinCEN;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the data maintenance system.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for FinCEN \$100,419,000 for fiscal year 2011 and such sums as may be necessary for each of the fiscal years 2012 and 2013.

(2) AUTHORIZATION FOR FUNDING KEY TECHNOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL FINCEN SYSTEMS.—There are authorized to be appropriated for fiscal year 2005 the following amounts, which are authorized to remain available until expended:

(A) BSA DIRECT.—For technological improvements to provide authorized law enforcement and financial regulatory agencies with Web-based access to FinCEN data, to fully develop and implement the highly secure network required under section 362 of Public Law 107–56 to expedite the filing of, and reduce the filing costs for, financial institution reports, including suspicious activity reports, collected by FinCEN under chapter 53 and related provisions of law, and enable FinCEN to immediately alert financial institutions about suspicious activities that warrant immediate and enhanced scrutiny, and to provide and upgrade advanced information-sharing technologies to materially improve the Government's ability to exploit the information in the FinCEN data banks, \$16,500,000.

(B) ADVANCED ANALYTICAL TECHNOLOGIES.—To provide advanced analytical tools needed to ensure that the data collected by FinCEN under chapter 53 and related provisions of law are utilized fully and appropriately in safeguarding financial institutions and supporting the war on terrorism, \$5,000,000.

(C) DATA NETWORKING MODERNIZATION.—To improve the telecommunications infrastructure to support the improved capabilities of the FinCEN systems, \$3,000,000.

(D) ENHANCED COMPLIANCE CAPABILITY.—To improve the effectiveness of the Office of Compliance in FinCEN, \$3,000,000.

(E) DETECTION AND PREVENTION OF FINANCIAL CRIMES AND TERRORISM.—To provide development of, and training in the use of, technology to detect and prevent financial crimes and terrorism within and without the United States, \$8,000,000.

(Added Pub. L. 107–56, title III, §361(a)(2), Oct. 26, 2001, 115 Stat. 329; amended Pub. L. 108–458, title VI, §§6101, 6203(a), Dec. 17, 2004, 118 Stat. 3744, 3746; Pub. L. 111–195, title I, §109(c), July 1, 2010, 124 Stat. 1338.)

REFERENCES IN TEXT

Chapter 2 of title I of Public Law 91–508, referred to in subsec. (b)(2)(B)(i), (C)(iii), (I), is chapter 2 (§§121–129) of title I of Pub. L. 91–508, Oct. 26, 1970, 84 Stat. 1116, which is classified generally to chapter 21 (§1951 et seq.) of Title 12, Banks and Banking. For complete classification of chapter 2 to the Code, see Tables.

Section 21 of the Federal Deposit Insurance Act, referred to in subsec. (b)(2)(B)(i), (C)(iii), (I), is classified to section 1829b of Title 12, Banks and Banking.

The Right to Financial Privacy Act of 1978, referred to in subsec. (c)(2), is title XI of Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3697, which is classified generally to chapter 35 (§3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

Section 362 of Public Law 107–56, referred to in subsec. (d)(2)(A), is set out as a note below.

PRIOR PROVISIONS

A prior section 310 was renumbered section 315 of this title.

AMENDMENTS

2010—Subsec. (d)(1). Pub. L. 111–195 substituted “\$100,419,000 for fiscal year 2011 and such sums as may be necessary for each of the fiscal years 2012 and 2013” for “such sums as may be necessary for fiscal years 2002, 2003, 2004, and 2005”.

2004—Subsec. (c)(1), (2)(A). Pub. L. 108–458, §6203(a), substituted “FinCEN” for “the Network”.

Subsec. (d). Pub. L. 108–458, §6101, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 6203(a) of Pub. L. 108–458 effective as if included in Pub. L. 107–56, as of the date of enactment of such Act, and no amendment made by Pub. L. 107–56 that is inconsistent with such amendment to be deemed to have taken effect, see section 6205 of Pub. L. 108–458, set out as a note under section 1828 of Title 12, Banks and Banking.

ESTABLISHMENT OF HIGHLY SECURE NETWORK

Pub. L. 107–56, title III, §362, Oct. 26, 2001, 115 Stat. 332, as amended by Pub. L. 108–458, title VI, §6202(m), Dec. 17, 2004, 118 Stat. 3746, provided that:

“(a) IN GENERAL.—The Secretary [of the Treasury] shall establish a highly secure network in the Financial Crimes Enforcement Network that—

“(1) allows financial institutions to file reports required under subchapter II of chapter 53 of title 31, United States Code, chapter 2 of Public Law 91-508 [probably means chapter 2 (§§121 to 129) of title I of Pub. L. 91-508 (12 U.S.C. 1951 et seq.)], or section 21 of the Federal Deposit Insurance Act [12 U.S.C. 1829b] through the secure network; and

“(2) provides financial institutions with alerts and other information regarding suspicious activities that warrant immediate and enhanced scrutiny.

“(b) EXPEDITED DEVELOPMENT.—The Secretary shall take such action as may be necessary to ensure that the secure network required under subsection (a) is fully operational before the end of the 9-month period beginning on the date of enactment of this Act [Oct. 26, 2001].”

§ 311. Office of Intelligence and Analysis

(a) ESTABLISHMENT.—There is established within the Department of the Treasury, the Office of Intelligence and Analysis (in this section referred to as the “Office”), which shall—

(1) be within the Office of Terrorism and Financial Intelligence;

(2) be responsible for the receipt, analysis, collation, and dissemination of foreign intelligence and foreign counterintelligence information (within the meaning of section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) related to the operation and responsibilities of the Department of the Treasury; and

(3) have such other related duties and authorities as may be assigned to it by the Secretary, subject to the authority, direction, and control of the Secretary.

(b) ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS.—The Office shall be headed by an Assistant Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report directly to the Undersecretary of the Treasury for Terrorism and Financial Crimes.

(Added Pub. L. 108-177, title I, §105(a)(1)(B), Dec. 13, 2003, 117 Stat. 2603; amended Pub. L. 108-447, div. H, title II, §222(b)(1), Dec. 8, 2004, 118 Stat. 3245.)

PRIOR PROVISIONS

A prior section 311 was renumbered section 315 of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-447, §222(b)(1)(A), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (b). Pub. L. 108-447, §222(b)(1)(B), substituted “Terrorism and Financial Crimes” for “Enforcement”.

CONSTRUCTION

Pub. L. 108-177, title I, §105(b), Dec. 13, 2003, 117 Stat. 2603, as amended by Pub. L. 111-259, title VIII, §808, Oct. 7, 2010, 124 Stat. 2749, provided that: “Nothing in section 311 of title 31, United States Code (as amended by subsection (a)), or in section 313 of such title, shall be construed to alter the authorities and responsibilities of the Director of National Intelligence with respect to the Office of Intelligence and Analysis of the Department of the Treasury as an element of the intelligence community.”

§ 312. Terrorism and financial intelligence

(a) OFFICE OF TERRORISM AND FINANCIAL INTELLIGENCE.—

(1) ESTABLISHMENT.—There is established within the Department of the Treasury the Office of Terrorism and Financial Intelligence (in this section referred to as “OTFI”), which shall be the successor to any such office in existence on the date of enactment of this section.

(2) LEADERSHIP.—

(A) UNDERSECRETARY.—There is established within the Department of the Treasury, the Office of the Undersecretary for Terrorism and Financial Crimes, who shall serve as the head of the OTFI, and shall report to the Secretary of the Treasury through the Deputy Secretary of the Treasury. The Office of the Undersecretary for Terrorism and Financial Crimes shall be the successor to the Office of the Undersecretary for Enforcement.

(B) APPOINTMENT.—The Undersecretary for Terrorism and Financial Crimes shall be appointed by the President, by and with the advice and consent of the Senate.

(3) ASSISTANT SECRETARY FOR TERRORIST FINANCING.—

(A) ESTABLISHMENT.—There is established within the OTFI the position of Assistant Secretary for Terrorist Financing.

(B) APPOINTMENT.—The Assistant Secretary for Terrorist Financing shall be appointed by the President, by and with the advice and consent of the Senate.

(C) DUTIES.—The Assistant Secretary for Terrorist Financing shall be responsible for formulating and coordinating the counter terrorist financing and anti-money laundering efforts of the Department of the Treasury, and shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(4) FUNCTIONS.—The functions of the OTFI include providing policy, strategic, and operational direction to the Department on issues relating to—

(A) implementation of titles I and II of the Bank Secrecy Act;

(B) United States economic sanctions programs;

(C) combating terrorist financing;

(D) combating financial crimes, including money laundering, counterfeiting, and other offenses threatening the integrity of the banking and financial systems;

(E) other enforcement matters;

(F) those intelligence analysis and coordination functions described in subsection (b); and

(G) the security functions and programs of the Department of the Treasury.

(5) REPORTS TO CONGRESS ON PROPOSED MEASURES.—The Undersecretary for Terrorism and Financial Crimes and the Assistant Secretary for Terrorist Financing shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representa-